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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to property insurance; amending s. 215.555, F.S.; changing the name of the Florida Hurricane Catastrophe Fund Finance Corporation to the State Board of Administration Finance Corporation; creating s. 215.5551, F.S.; creating the Florida Catastrophe Risk Capital Access Facility to increase the access of small domestic insurers to risk-capital markets; providing intent; establishing the facility in the State Board of Administration; providing the purposes of the facility; requiring the facility to be funded entirely by participating insurers after initial apportionment; providing limitations; providing for a board of directors; providing immunity from liability; providing for an annual report; amending s. 624.155, F.S.; providing that Citizens Property Insurance Corporation is an insurer subject to civil actions as an agent of the state covered by sovereign immunity; amending s. 626.752, F.S., relating to the exchange of business between an agent and insurer; providing an exemption from the requirements of that section to the corporation or certain private entities under certain circumstances; amending s. 627.062, F.S.; requiring the Office of Insurance Regulation to calculate and publish insurance inflation factors for use in residential property insurance filings; prohibiting the office



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28 from disapproving a rate as excessive due to the
29 insurer's purchase of reinsurance for certain
30 purposes; deleting obsolete provisions; conforming
31 cross-references; amending s. 627.0628, F.S.;
32 requiring the Florida Commission on Hurricane Loss
33 Projection Methodology to consider methods for
34 improving the accuracy of wind mitigation discounts;
35 amending s. 627.0629, F.S.; requiring insurers to
36 provide notice of mitigation discounts in a
37 residential property insurance rate filing; revising
38 the criteria for when the office may hold a public
39 hearing regarding a rate filing; amending s. 627.171,
40 F.S.; allowing a consent to an excess rate to apply to
41 subsequent policy renewals; limiting the allowable
42 amount of excess rates to counties where there is no
43 competition; amending s. 627.351, F.S.; revising
44 legislative intent with respect to the corporation;
45 reducing the value of residential structures that can
46 be covered by the corporation; revising the
47 corporation's eligibility criteria for structures
48 located seaward of the coastal construction control
49 line; requiring the corporation's board of governors
50 to concur with certain decisions by the executive
51 director; providing for risk-sharing agreements
52 between the corporation and other insurers and
53 specifying the requirements and limitations of such
54 agreements; revising provisions relating to the
55 appointment of the board of governors and the
56 executive director; deleting provisions allowing a



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57 policyholder removed from the corporation to remain
58 eligible for coverage regardless of an offer of
59 coverage from an authorized insurer; revising
60 corporation criteria for appointing agents; requiring
61 disclosure of potential corporation surcharges and
62 policyholder obligations to try and obtain private
63 market coverage; revising provisions relating to the
64 Auditor General's review of the corporation; requiring
65 the board to contract with an independent auditing
66 firm to conduct performance audits; authorizing the
67 corporation to adopt programs that encourage insurers
68 to remove policies from the corporation through a loan
69 secured by a surplus note; requiring the corporation
70 to have an inspector general; providing for
71 appointment; providing duties; requiring an annual
72 report to the Legislature; revising provisions
73 relating to purchases by the corporation; providing
74 that the corporation is subject to state agency
75 purchasing requirements; requiring the corporation to
76 provide notice of purchasing decisions; providing
77 procedures for protesting such decisions; providing
78 applicability; revising the corporation's rate
79 standards; requiring that corporation rates be
80 competitive with approved rates charged in the
81 admitted market, actuarially sound, and include a
82 catastrophe risk load factor; providing exceptions;
83 limiting rate increases for specified personal and
84 commercial lines residential policies and allowing an
85 additional rate increase; requiring the corporation to



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86 annually certify its rates; requiring the board of
87 directors to provide recommendations to the
88 Legislature on ways of providing rate relief to those
89 who demonstrate a financial need; deleting obsolete
90 provisions; creating s. 627.3518, F.S.; establishing a
91 clearinghouse within the corporation for identifying
92 and diverting insurance coverage to private insurers;
93 providing definitions; providing requirements and
94 duties of the corporation, insurers, and agents;
95 providing for an alternative to submitting risks to
96 the corporation; establishing a temporary keepout
97 program that allows authorized insurers to provide
98 coverage to applicants for coverage through the
99 corporation through the market assistance program
100 until the clearinghouse is operational; providing
101 program components; providing for expiration; amending
102 s. 627.405, F.S.; authorizing policyholders to assign
103 benefits subject to conditions in the policy; amending
104 s. 627.410, F.S.; conforming provisions to changes
105 made by the act; creating s. 627.4102, F.S.; providing
106 for an informational filing of certain forms that are
107 exempt from the Office of Insurance Regulation's
108 approval process; requiring an informational filing to
109 include a notarized certification from the insurer and
110 providing a statement that must be included in the
111 certification; requiring a Notice of Change in Policy
112 Terms form to be filed with a changed renewal policy;
113 providing effective dates.

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115 Be It Enacted by the Legislature of the State of Florida:

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117 Section 1. Paragraph (n) of subsection (2) and paragraph
118 (d) of subsection (6) of section 215.555, Florida Statutes, are
119 amended to read:

120 215.555 Florida Hurricane Catastrophe Fund.—

121 (2) DEFINITIONS.—As used in this section:

122 (n) "Corporation" means the State Board of Administration
123 ~~Florida Hurricane Catastrophe Fund~~ Finance Corporation created
124 in paragraph (6) (d).

125 (6) REVENUE BONDS.—

126 (d) State Board of Administration ~~Florida Hurricane~~
127 ~~Catastrophe Fund~~ Finance Corporation.—

128 1. In addition to the findings and declarations in
129 subsection (1), the Legislature also finds and declares that:

130 a. The public benefits corporation created under this
131 paragraph will provide a mechanism ~~necessary~~ for the cost-
132 effective and efficient issuance of bonds. This mechanism will
133 eliminate unnecessary costs in the bond issuance process,
134 thereby increasing the amounts available for ~~to pay~~
135 reimbursement for losses to property sustained as a result of
136 hurricane damage.

137 b. The purpose of such bonds is to fund reimbursements
138 through the Florida Hurricane Catastrophe Fund ~~to pay~~ for the
139 costs of construction, reconstruction, repair, restoration, and
140 other costs associated with damage to properties of
141 policyholders of covered policies due to the occurrence of a
142 hurricane.

143 c. The efficacy of the financing mechanism will be enhanced



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144 by the corporation's ownership of the assessments, by the
145 insulation of the assessments from possible bankruptcy
146 proceedings, and by covenants of the state with the
147 corporation's bondholders.

148 ~~2.a.~~ The State Board of Administration Finance Corporation
149 ~~There is created, which is a public benefits corporation and,~~
150 ~~which is an instrumentality of the state, to be known as the~~
151 ~~Florida Hurricane Catastrophe Fund Finance Corporation. The~~
152 State Board of Administration Finance Corporation is for all
153 purposes the successor to the Florida Hurricane Catastrophe Fund
154 Finance Corporation.

155 ~~a.b.~~ The corporation shall operate under a five-member
156 board of directors consisting of the Governor or a designee, the
157 Chief Financial Officer or a designee, the Attorney General or a
158 designee, the director of the Division of Bond Finance of the
159 State Board of Administration, and the Chief Operating Officer
160 ~~senior employee of the State Board of Administration responsible~~
161 ~~for operations~~ of the Florida Hurricane Catastrophe Fund.

162 ~~b.e.~~ The corporation has all of the powers of corporations
163 under chapter 607 and under chapter 617, subject only to ~~the~~
164 ~~provisions of~~ this subsection.

165 ~~c.d.~~ The corporation may issue bonds and engage in such
166 other financial transactions as are necessary to provide
167 sufficient funds to achieve the purposes of this section.

168 ~~d.e.~~ The corporation may invest in any of the investments
169 authorized under s. 215.47.

170 ~~e.f.~~ There is ~~shall be~~ no liability on the part of, and no
171 cause of action shall arise against, any board members or
172 employees of the corporation for any actions taken by them in



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173 the performance of their duties under this paragraph.

174 3.a. In actions under chapter 75 to validate any bonds
175 issued by the corporation, the notice required by s. 75.06 must
176 ~~shall~~ be published in two newspapers of general circulation in
177 the state, and the complaint and order of the court shall be
178 served only on the State Attorney of the Second Judicial
179 Circuit.

180 b. The state hereby covenants with holders of bonds of the
181 corporation that the state will not repeal or abrogate the power
182 of the board to direct the Office of Insurance Regulation to
183 levy the assessments and to collect the proceeds of the revenues
184 pledged to the payment of such bonds as long as ~~any~~ such bonds
185 remain outstanding unless adequate provision has been made for
186 the payment of such bonds pursuant to the documents authorizing
187 the issuance of the ~~such~~ bonds.

188 ~~c.4.~~ The bonds of the corporation are not a debt of the
189 state or of any political subdivision, and neither the state nor
190 any political subdivision is liable on such bonds. The
191 corporation may not ~~does not have the power to~~ pledge the
192 credit, the revenues, or the taxing power of the state or of any
193 political subdivision. The credit, revenues, or taxing power of
194 the state or of any political subdivision may ~~shall~~ not be
195 deemed to be pledged to the payment of any bonds of the
196 corporation.

197 ~~d.5.a.~~ The property, revenues, and other assets of the
198 corporation; the transactions and operations of the corporation
199 and the income from such transactions and operations; and all
200 bonds issued under this paragraph and interest on such bonds are
201 exempt from taxation by the state and any political subdivision,



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202 including the intangibles tax under chapter 199 and the income
203 tax under chapter 220. This exemption does not apply to any tax
204 imposed by chapter 220 on interest, income, or profits on debt
205 obligations owned by corporations other than the State Board of
206 Administration ~~Florida Hurricane Catastrophe Fund~~ Finance
207 Corporation.

208 ~~e.b.~~ All bonds of the corporation are ~~shall be and~~
209 ~~constitute~~ legal investments without limitation for all public
210 bodies of this state; for all banks, trust companies, savings
211 banks, savings associations, savings and loan associations, and
212 investment companies; for all administrators, executors,
213 trustees, and other fiduciaries; for all insurance companies and
214 associations and other persons carrying on an insurance
215 business; and for all other persons who are now or may hereafter
216 be authorized to invest in bonds or other obligations of the
217 state and are ~~shall be and constitute~~ eligible securities to be
218 deposited as collateral for the security of any state, county,
219 municipal, or other public funds. This sub-subparagraph shall be
220 considered ~~as~~ additional and supplemental authority and may
221 ~~shall~~ not be limited without specific reference to this sub-
222 subparagraph.

223 ~~4.6.~~ The corporation and its corporate existence shall
224 continue until terminated by law; however, no such law shall
225 take effect as long as the corporation has bonds outstanding
226 unless adequate provision has been made for the payment of such
227 bonds pursuant to the documents authorizing the issuance of such
228 bonds. Upon termination of the existence of the corporation, all
229 of its rights and properties in excess of its obligations shall
230 pass to and be vested in the state.



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231 Section 2. Section 215.5551, Florida Statutes, is created
232 to read:

233 215.5551 Florida Catastrophe Risk Capital Access Facility.

234 (1) The Legislature finds that the global market for
235 catastrophe risk has expanded dramatically, resulting in the
236 availability of billions of dollars in additional risk capital
237 for insurers and new and innovative alternative risk-transfer
238 mechanisms. The Legislature also finds that having access to
239 additional risk capital and risk-transfer mechanisms provides
240 insurers providing coverage in this state with an opportunity to
241 expand their capacity to write additional business and diversify
242 their catastrophe risk. The Legislature further finds that
243 despite an expansion in the amount of available global risk
244 capital, small insurers, particularly smaller domestic insurers,
245 writing property insurance in this state face substantial
246 challenges accessing these global markets when the relatively
247 small amount of risk finance required by any one company is not
248 economically viable. Therefore, it is the intent of the
249 Legislature to create a mechanism to facilitate the access of
250 small domestic insurers to global risk capital markets and risk-
251 transfer mechanisms.

252 (2) Effective July 1, 2013, the Florida Catastrophe Risk
253 Capital Access Facility is created within the State Board of
254 Administration. The facility is not defined nor may it function
255 as an insurer, reinsurer, or other risk-bearing entity under
256 state law.

257 (3) The facility shall:

258 (a) Aggregate the demand for risk finance from global
259 capital markets among smaller volume domestic property insurance



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260 companies writing business in this state.

261 (b) Design and execute risk-transfer tools such as
262 insurance-linked securities and other securitization models for
263 participating insurers, and use special purpose vehicles or
264 protected cells, onshore or offshore, as appropriate, to
265 increase access to risk capital.

266 (c) Identify and coordinate appropriate risk-transfer
267 products and opportunities, initially targeting layers of
268 coverage below, alongside, and above the portion of the
269 reinsurance market covered by the Florida Hurricane Catastrophe
270 Fund.

271 (d) Establish and maintain regular and ongoing contact with
272 global risk capital market participants, institutions, and
273 investors, in order to identify opportunities that satisfy and
274 coordinate insurer demand for additional risk capital.

275 (4) After an initial apportionment for startup purposes,
276 the facility shall be funded entirely by participating insurers
277 on a pro rata basis.

278 (5) In conducting its affairs, the facility may not:

279 (a) Take a position in, or provide financial support for,
280 risk-transfer transactions;

281 (b) Be a guarantor of premium or make any other financial
282 guarantees to participating insurers;

283 (c) Create contractual obligations on the part of the
284 state; or

285 (d) Levy taxes or assessments.

286 (6) The facility shall be governed by a board of directors
287 composed of seven members, one from the Department of Financial
288 Services; one from the State Board of Administration; one from



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289 the Office of Insurance Regulation; three industry members
290 representing Florida property insurance writers, the reinsurance
291 community, and the financial securities industry; and one member
292 appointed by a majority of the board. The board may employ or
293 contract with such staff and professionals as the board deems
294 necessary to accomplish its purpose.

295 (7) There shall be no liability on the part of, and no
296 cause of action of any nature may arise against, the facility or
297 its agents or employees, the board of directors, or the
298 department or office or their representatives for any action
299 taken by them in the performance of their powers and duties
300 under this section.

301 (8) The facility shall submit a report to the Financial
302 Services Commission by January 1 of each year describing
303 facility activities and transactions undertaken by participating
304 insurers.

305 Section 3. Subsection (1) of section 624.155, Florida
306 Statutes, is amended and subsection (10) is added to that
307 section, to read:

308 624.155 Civil remedy.—

309 (1) Any person may bring a civil action against an insurer,
310 including Citizens Property Insurance Corporation, if ~~when~~ such
311 person is damaged:

312 (a) By a violation of any of the following provisions by
313 the insurer:

- 314 1. Section 626.9541(1) (i), (o), or (x);
- 315 2. Section 626.9551;
- 316 3. Section 626.9705;
- 317 4. Section 626.9706;



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318 5. Section 626.9707; or

319 6. Section 627.7283.

320 (b) By the commission of any of the following acts by the
321 insurer:

322 1. Not attempting in good faith to settle claims ~~if~~ when,
323 under all the circumstances, it could and should have done so,
324 had it acted fairly and honestly toward its insured and with due
325 regard for her or his interests;

326 2. Making claims payments to insureds or beneficiaries not
327 accompanied by a statement setting forth the coverage under
328 which payments are being made; or

329 3. Except as to liability coverages, failing to promptly
330 settle claims, when the obligation to settle a claim has become
331 reasonably clear, under one portion of the insurance policy
332 coverage in order to influence settlements under other portions
333 of the insurance policy coverage.

334

335 Notwithstanding the provisions of this subsection ~~the above to~~
336 ~~the contrary~~, a person pursuing a remedy under this section need
337 not prove that such act was committed or performed with such
338 frequency as to indicate a general business practice.

339 (10) For the purposes of this section, Citizens Property
340 Insurance Corporation is an agent of the state covered under s.
341 768.28.

342 Section 4. Subsection (4) of section 626.752, Florida
343 Statutes, is amended to read:

344 626.752 Exchange of business.—

345 (4) The foregoing limitations and restrictions do ~~shall~~ not
346 ~~be construed and shall not~~ apply to the placing of surplus lines



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347 business under the provisions of part VIII, or to the activities
348 of Citizens Property Insurance Corporation or private entities
349 referenced under 627.3518(7) when placing new and renewal
350 business with authorized insurers in accordance with s.627.3518.

351 Section 5. Subsection (2) and paragraph (d) of subsection
352 (3) of section 627.062, Florida Statutes, are amended to read:
353 627.062 Rate standards.—

354 (2) As to all such classes of insurance:

355 (a) Insurers or rating organizations shall establish and
356 use rates, rating schedules, or rating manuals that allow the
357 insurer a reasonable rate of return on the classes of insurance
358 written in this state. A copy of rates, rating schedules, rating
359 manuals, premium credits or discount schedules, and surcharge
360 schedules, and changes thereto, must be filed with the office in
361 accordance with ~~under~~ one of the following procedures:

362 1. If the filing is made at least 90 days before the
363 proposed effective date and is not implemented during the
364 office's review of the filing and any proceeding and judicial
365 review, such filing is considered a "file and use" filing. In
366 such case, the office shall finalize its review by issuance of a
367 notice of intent to approve or a notice of intent to disapprove
368 within 90 days after receipt of the filing. The notice of intent
369 to approve and the notice of intent to disapprove constitute
370 agency action for purposes of the Administrative Procedure Act.
371 Requests for supporting information, requests for mathematical
372 or mechanical corrections, or notification to the insurer by the
373 office of its preliminary findings does not toll the 90-day
374 period during ~~any~~ such proceedings and subsequent judicial
375 review. The rate shall be deemed approved if the office does not



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376 issue a notice of intent to approve or a notice of intent to
377 disapprove within 90 days after receipt of the filing.

378 2. If the filing is not made in accordance with
379 subparagraph 1., such filing must be made as soon as
380 practicable, but within 30 days after the effective date, and is
381 considered a "use and file" filing. An insurer making a "use and
382 file" filing is potentially subject to an order by the office to
383 return ~~to policyholders~~ those portions of rates found to be
384 excessive to policyholders, as provided in paragraph (i) ~~(h)~~.

385 ~~3. For all property insurance filings made or submitted~~
386 ~~after January 25, 2007, but before May 1, 2012, an insurer~~
387 ~~seeking a rate that is greater than the rate most recently~~
388 ~~approved by the office shall make a "file and use" filing. For~~
389 ~~purposes of this subparagraph, motor vehicle collision and~~
390 ~~comprehensive coverages are not considered property coverages.~~

391 (b) Upon receiving a rate filing, the office shall review
392 the filing to determine if a rate is excessive, inadequate, or
393 unfairly discriminatory. In making that determination, the
394 office shall, in accordance with generally accepted and
395 reasonable actuarial techniques, consider the following factors:

396 1. Past and prospective loss experience within and without
397 this state.

398 2. Past and prospective expenses.

399 3. The degree of competition among insurers for the risk
400 insured.

401 4. Investment income reasonably expected by the insurer,
402 consistent with the insurer's investment practices, from
403 investable premiums anticipated from ~~in~~ the filing, plus any
404 other expected income from currently invested assets



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405 representing the amount expected on unearned premium reserves
406 and loss reserves. The commission may adopt rules that use ~~using~~
407 reasonable techniques of actuarial science and economics to
408 specify the manner in which insurers calculate investment income
409 attributable to classes of insurance written in this state and
410 ~~the manner~~ in which investment income is used to calculate
411 insurance rates. Such rules ~~manner~~ must allow ~~contemplate~~
412 ~~allowances~~ for an underwriting profit factor and full
413 consideration of investment income which produce a reasonable
414 rate of return; however, investment income from invested surplus
415 may not be considered.

416 5. The reasonableness of the judgment reflected in the
417 filing.

418 6. Dividends, savings, or unabsorbed premium deposits
419 allowed or returned to state ~~Florida~~ policyholders, members, or
420 subscribers.

421 7. The adequacy of loss reserves.

422 8. The cost of reinsurance. The office may not disapprove a
423 rate as excessive ~~solely~~ due solely to the insurer having
424 obtained catastrophic reinsurance to cover the insurer's
425 estimated 250-year probable maximum loss or any lower level of
426 loss, or due solely to an admitted carrier purchasing private
427 reinsurance that would insure against potential deficits within
428 the Florida Hurricane Catastrophe Fund which the most recent
429 estimate made pursuant to s. 215.555(4)(c)2. predicts would be
430 funded through revenue bonds issued under s. 215.555(6).

431 9. Trend factors, including trends in actual losses per
432 insured unit for the insurer making the filing.

433 10. Conflagration and catastrophe hazards, if applicable.



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434 11. Projected hurricane losses, if applicable, which must
435 be estimated using a model or method found to be acceptable or
436 reliable by the Florida Commission on Hurricane Loss Projection
437 Methodology, and as further provided in s. 627.0628.

438 12. A reasonable margin for underwriting profit and
439 contingencies.

440 13. The cost of medical services, if applicable.

441 14. Other relevant factors that affect the frequency or
442 severity of claims or expenses.

443 (c) The office shall calculate and publish insurance
444 inflation factors based on noncatastrophe direct loss costs for
445 use in residential property insurance filings. The office shall
446 update the published factors at least annually and make them
447 available on its website. The calculation of insurance inflation
448 factors are not subject to rulemaking under chapter 120.

449 1. An insurer making a residential property insurance rate
450 filing that proposes a change in noncatastrophe base rates by a
451 uniform factor equal to or less than the applicable published
452 insurance inflation factor, may make a rate filing under s.
453 627.0645 which consists of a rate certification in lieu of a
454 full rate filing under paragraph (a). The office shall verify
455 insurer use of the appropriate published inflation factor and,
456 if the inflation factor is used appropriately, the filed rates
457 shall be deemed not excessive.

458 2. An insurer filing under this paragraph may make a
459 separate filing pursuant to paragraph (1) to adjust its rates
460 for reinsurance rates, reinsurance financing costs and products,
461 and cash buildup factor costs. The insurance inflation factors
462 do not apply to these filings.



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463 3. This paragraph does not apply to filings made by
464 Citizens Property Insurance Corporation.

465 (d)~~(e)~~ In the case of fire insurance rates, consideration
466 must be given to the availability of water supplies and the
467 experience of the fire insurance business during ~~a period of not~~
468 ~~less than~~ the most recent 5-year or longer period for which such
469 experience is available.

470 (e)~~(d)~~ If conflagration or catastrophe hazards are
471 considered by an insurer in its rates or rating plan, including
472 surcharges and discounts, the insurer must ~~shall~~ establish a
473 reserve for that portion of the premium allocated to such hazard
474 and maintain the premium in a catastrophe reserve. Removal of
475 such premiums from the reserve for purposes other than paying
476 claims associated with a catastrophe or purchasing reinsurance
477 for catastrophes must be approved by the office. Any ceding
478 commission received by an insurer purchasing reinsurance for
479 catastrophes must be placed in the catastrophe reserve.

480 (f)~~(e)~~ After consideration of the rate factors provided in
481 paragraphs (b), ~~(c), and (d)~~, and (e) the office may find a rate
482 to be excessive, inadequate, or unfairly discriminatory based
483 upon the following standards:

484 1. Rates shall be deemed excessive if they are likely to
485 produce a profit from Florida business which is unreasonably
486 high in relation to the risk involved in the class of business
487 or if expenses are unreasonably high in relation to services
488 rendered.

489 2. Rates shall be deemed excessive if, among other things,
490 the rate structure established by a stock insurance company
491 provides for replenishment of surpluses from premiums, if the



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492 such replenishment is attributable to investment losses.

493 3. Rates shall be deemed inadequate if ~~they are clearly~~
494 ~~insufficient~~, together with the investment income attributable
495 to them, they are clearly insufficient to sustain projected
496 losses and expenses in the class of business to which they
497 apply.

498 4. A rating plan, including discounts, credits, or
499 surcharges, shall be deemed unfairly discriminatory if it fails
500 to clearly and equitably reflect consideration of the
501 policyholder's participation in a risk management program
502 adopted pursuant to s. 627.0625.

503 5. A rate shall be deemed inadequate as to the premium
504 charged to a risk or group of risks if discounts or credits are
505 allowed which exceed a reasonable reflection of expense savings
506 and reasonably expected loss experience from the risk or group
507 of risks.

508 6. A rate shall be deemed unfairly discriminatory as to a
509 risk or group of risks if the application of premium discounts,
510 credits, or surcharges among such risks does not bear a
511 reasonable relationship to the expected loss and expense
512 experience among the various risks.

513 (g) ~~(f)~~ In reviewing a rate filing, the office may require
514 the insurer to provide, at the insurer's expense, all
515 information necessary to evaluate the condition of the company
516 and the reasonableness of the filing according to the criteria
517 enumerated in this section.

518 (h) ~~(g)~~ The office may at any time review a rate, rating
519 schedule, rating manual, or rate change; the pertinent records
520 of the insurer; and market conditions. If the office finds on a



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521 preliminary basis that a rate may be excessive, inadequate, or
522 unfairly discriminatory, the office shall initiate proceedings
523 to disapprove the rate and ~~shall so~~ notify the insurer. However,
524 the office may not disapprove as excessive any rate for which it
525 has given final approval or which has been deemed approved for 1
526 year after the effective date of the filing unless the office
527 finds that a material misrepresentation or material error was
528 made by the insurer or was contained in the filing. Upon
529 notification being notified, the insurer or rating organization
530 shall, within 60 days, file with the office all information
531 that, in the belief of the insurer or organization, proves the
532 reasonableness, adequacy, and fairness of the rate or rate
533 change. The office shall issue a notice of intent to approve or
534 a notice of intent to disapprove pursuant to paragraph (a)
535 within 90 days after receipt of the insurer's initial response.
536 In such instances and in any administrative proceeding relating
537 to the legality of the rate, the insurer or rating organization
538 ~~shall~~ carry the burden of proof of showing, by a preponderance
539 of the evidence, ~~to show~~ that the rate is not excessive,
540 inadequate, or unfairly discriminatory. After the office
541 notifies an insurer that a rate may be excessive, inadequate, or
542 unfairly discriminatory, unless the office withdraws the
543 notification, the insurer may not alter the rate except to
544 conform to the office's notice until the earlier of 120 days
545 after the date the notification was provided or 180 days after
546 the date of implementing the rate. ~~The office,~~ Subject to
547 chapter 120, the office may disapprove without the 60-day
548 notification any rate increase filed by an insurer within the
549 prohibited time period or during the time that the legality of



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550 the increased rate is being contested.

551 (i)~~(h)~~ If the office finds that a rate or rate change is
552 excessive, inadequate, or unfairly discriminatory, the office
553 shall issue an order of disapproval requiring ~~specifying~~ that a
554 new rate or rate schedule, which responds to the findings of the
555 office, be filed by the insurer. The office shall further order,
556 for any "use and file" filing made in accordance with
557 subparagraph (a)2., that the portion of premiums charged which
558 constitute ~~each policyholder constituting~~ the portion of the
559 rate above that which was actuarially justified be returned to
560 the policyholder in the form of a credit or refund. If the
561 office finds that an insurer's rate or rate change is
562 inadequate, the new rate or rate schedule filed with the office
563 in response to such a finding applies ~~is applicable~~ only to new
564 or renewal business ~~of the insurer~~ written by the insurer on or
565 after the effective date of the responsive filing.

566 (j)~~(i)~~ Except as otherwise specifically provided in this
567 chapter, for property and casualty insurance the office may not
568 directly or indirectly:

569 1. Prohibit an ~~any~~ insurer, including any residual market
570 plan or joint underwriting association, from paying acquisition
571 costs based on the full amount of premium, as defined in s.
572 627.403, applicable to any policy, or prohibit ~~any~~ such insurer
573 from including the full amount of acquisition costs in a rate
574 filing; or

575 2. Impede, abridge, or otherwise compromise an insurer's
576 right to acquire policyholders, advertise, or appoint agents,
577 including the calculation, manner, or amount of such agent
578 commissions, if any.



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579 (k)~~(j)~~ With respect to residential property insurance rate
580 filings, the rate filing must account for mitigation measures
581 undertaken by policyholders to reduce hurricane losses.

582 (1)~~(*)~~1. A residential property insurer may make a separate
583 filing limited solely to an adjustment of its rates for
584 reinsurance, the cost of financing products used as a
585 replacement for reinsurance, financing costs incurred in the
586 purchase of reinsurance, and the actual cost paid due to the
587 application of the cash build-up factor pursuant to s.
588 215.555(5)(b) if the insurer:

589 a. Elects to purchase financing products, such as a
590 liquidity instrument or line of credit, in which case the cost
591 included in filing for the liquidity instrument or line of
592 credit may not result in a premium increase exceeding 3 percent
593 for any individual policyholder. All costs contained in the
594 filing may not result in an overall premium increase of more
595 than 15 percent for any individual policyholder.

596 b. Includes in the filing a copy of all of its reinsurance,
597 liquidity instrument, or line of credit contracts; proof of the
598 billing or payment for the contracts; and the calculation upon
599 which the proposed rate change is based demonstrating that the
600 costs meet the criteria of this section.

601 2. An insurer that purchases reinsurance or financing
602 products from an affiliated company may make a separate filing
603 only if the costs for such reinsurance or financing products are
604 charged at or below charges made for comparable coverage by
605 nonaffiliated reinsurers or financial entities making such
606 coverage or financing products available in this state.

607 3. An insurer may make only one filing per 12-month period



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608 under this paragraph.

609 4. An insurer that elects to implement a rate change under
610 this paragraph must file its rate filing with the office at
611 least 45 days before the effective date of the rate change.
612 After an insurer submits a complete filing that meets all of the
613 requirements of this paragraph, the office has 45 days after the
614 date of the filing to review the rate filing and determine if
615 the rate is excessive, inadequate, or unfairly discriminatory.

616

617 The provisions of this subsection do not apply to workers'
618 compensation, employer's liability insurance, and motor vehicle
619 insurance.

620 (3)

621 (d)1. The following categories or kinds of insurance and
622 types of commercial lines risks are not subject to paragraph
623 (2) (a) or paragraph (2) (g) ~~(2) (f)~~:

624 a. Excess or umbrella.

625 b. Surety and fidelity.

626 c. Boiler and machinery and leakage and fire extinguishing
627 equipment.

628 d. Errors and omissions.

629 e. Directors and officers, employment practices, fiduciary
630 liability, and management liability.

631 f. Intellectual property and patent infringement liability.

632 g. Advertising injury and Internet liability insurance.

633 h. Property risks rated under a highly protected risks
634 rating plan.

635 i. General liability.

636 j. Nonresidential property, except for collateral



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637 protection insurance as defined in s. 624.6085.

638 k. Nonresidential multiperil.

639 l. Excess property.

640 m. Burglary and theft.

641 n. Any other commercial lines categories or kinds of
642 insurance or types of commercial lines risks that the office
643 determines should not be subject to paragraph (2) (a) or
644 paragraph (2) (g) ~~(2) (f)~~ because of the existence of a
645 competitive market for such insurance, similarity of such
646 insurance to other categories or kinds of insurance not subject
647 to paragraph (2) (a) or paragraph (2) (g) ~~(2) (f)~~, or to improve
648 the general operational efficiency of the office.

649 2. Insurers or rating organizations shall establish and use
650 rates, rating schedules, or rating manuals that ~~to~~ allow the
651 insurer a reasonable rate of return on insurance and risks
652 described in subparagraph 1. which are written in this state.

653 3. An insurer must notify the office of any changes to
654 rates for insurance and risks described in subparagraph 1.
655 within 30 days after the effective date of the change. The
656 notice must include the name of the insurer, the type or kind of
657 insurance subject to rate change, total premium written during
658 the immediately preceding year by the insurer for the type or
659 kind of insurance subject to the rate change, and the average
660 statewide percentage change in rates. Underwriting files,
661 premiums, losses, and expense statistics relating ~~with regard~~ to
662 such insurance and risks written by an insurer must be
663 maintained by the insurer and subject to examination by the
664 office. Upon examination, the office, in accordance with
665 generally accepted and reasonable actuarial techniques, shall



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666 consider the rate factors in paragraphs (2) (b), (d) ~~(e)~~, and (e)
667 ~~(d)~~ and the standards in paragraph (2) (f) ~~(2) (e)~~ to determine if
668 the rate is excessive, inadequate, or unfairly discriminatory.

669 4. A rating organization must notify the office of any
670 changes to loss cost for insurance and risks described in
671 subparagraph 1. within 30 days after the effective date of the
672 change. The notice must include the name of the rating
673 organization, the type or kind of insurance subject to a loss
674 cost change, loss costs during the immediately preceding year
675 for the type or kind of insurance subject to the loss cost
676 change, and the average statewide percentage change in loss
677 cost. Actuarial data relating ~~with regard~~ to changes to loss
678 cost for risks not subject to paragraph (2) (a) or paragraph
679 (2) (g) ~~(2) (f)~~ must be maintained by the rating organization for
680 2 years after the effective date of the change and are subject
681 to examination by the office. The office may require the rating
682 organization to incur the costs associated with an examination.
683 Upon examination, the office, in accordance with generally
684 accepted and reasonable actuarial techniques, shall consider the
685 rate factors in paragraphs (2) (b), (d), and (e) ~~(2) (b) - (d)~~ and
686 the standards in paragraph (2) (f) ~~(2) (e)~~ to determine if the
687 rate is excessive, inadequate, or unfairly discriminatory.

688 Section 6. Paragraphs (a) and (b) of subsection (3) of
689 section 627.0628, Florida Statutes, are amended to read:

690 627.0628 Florida Commission on Hurricane Loss Projection
691 Methodology; public records exemption; public meetings
692 exemption.—

693 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

694 (a) The commission shall consider any actuarial methods,



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695 principles, standards, models, or output ranges that have the
696 potential for improving the accuracy ~~of~~ or reliability of the
697 hurricane loss projections and wind mitigation discounts used in
698 residential property insurance rate filings. The commission
699 shall, from time to time, adopt findings as to the accuracy or
700 reliability of particular methods, principles, standards,
701 models, or output ranges.

702 (b) The commission shall consider any actuarial methods,
703 principles, standards, or models that have the potential for
704 improving the accuracy ~~of~~ or reliability of projecting probable
705 maximum loss levels. The commission shall adopt findings as to
706 the accuracy or reliability of particular methods, principles,
707 standards, or models related to probable maximum loss
708 calculations. The commission shall review models for accuracy of
709 use when establishing wind mitigation discounts.

710 Section 7. Subsections (1) and (6) of section 627.0629,
711 Florida Statutes, are amended to read:

712 627.0629 Residential property insurance; rate filings.—

713 (1) It is the intent of the Legislature that insurers
714 provide savings to consumers who install or implement windstorm
715 damage mitigation techniques, alterations, or solutions to their
716 properties to prevent windstorm losses. A rate filing for
717 residential property insurance must include notice of the
718 mitigation discounts offered by the insurer, which must be
719 actuarially reasonable discounts, credits, or other rate
720 differentials, or appropriate reductions in deductibles, for
721 properties on which fixtures or construction techniques
722 demonstrated to reduce the amount of loss in a windstorm have
723 been installed or implemented. The fixtures or construction



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724 techniques must include, but are not limited to, fixtures or
725 construction techniques that enhance roof strength, roof
726 covering performance, roof-to-wall strength, wall-to-floor-to-
727 foundation strength, ~~opening protection,~~ and the impact
728 resistance of window, door, and skylight openings strength.
729 Credits, discounts, or other rate differentials, or appropriate
730 reductions in deductibles, for fixtures and construction
731 techniques that meet the minimum requirements of the Florida
732 Building Code must be included in the rate filing. ~~The office~~
733 ~~shall determine the discounts, credits, other rate~~
734 ~~differentials, and appropriate reductions in deductibles that~~
735 ~~reflect the full actuarial value of such revaluation, which may~~
736 ~~be used by insurers in rate filings.~~

737 (6) The office may hold a public hearing for a any rate
738 filing that is based in whole or in part on data from a computer
739 model which exceeds may not exceed 15 percent in counties the
740 office determines do not have a reasonable degree of competition
741 ~~unless there is a public hearing.~~

742 Section 8. Section 627.171, Florida Statutes, is amended to
743 read:

744 627.171 Excess rates.—

745 (1) With the written consent of the insured signed before
746 ~~prior to~~ the policy inception date and filed with the insurer,
747 the insurer may use a rate in excess of the otherwise applicable
748 filed rate on any specific risk. The signed consent form is
749 valid for subsequent renewals and must include the filed rate as
750 well as the excess rate for the risk insured., ~~and~~ A copy of the
751 form must be maintained by the insurer for 3 years and be
752 available for review by the office.



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753 (2) In those counties in which the office has determined
754 there is not a reasonable degree of competition, an insurer may
755 not use excess rates authorized under ~~pursuant to~~ this section
756 for more than 10 percent of its commercial insurance policies
757 written or renewed in each calendar year for any line of
758 commercial insurance or for more than 5 percent of its personal
759 lines insurance policies written or renewed in each calendar
760 year for any line of personal insurance. In determining the 10-
761 percent limitation for commercial insurance policies, the
762 insurer shall exclude a ~~any~~ workers' compensation policy that
763 was written for an employer who had coverage in the joint
764 underwriting plan created by s. 627.311(5) immediately before
765 ~~prior to~~ the writing of the policy by the insurer and a ~~any~~
766 workers' compensation policy that was written for an employer
767 who had been offered coverage in the joint underwriting plan but
768 who was written a policy by the insurer in lieu of accepting the
769 joint underwriting plan policy. Such ~~These~~ workers' compensation
770 policies shall be excluded from the 10-percent limitation for
771 the first 3 years of coverage.

772 Section 9. Paragraphs (a), (b), (c), (g), (i), (m), (q),
773 and (z) of subsection (6) of section 627.351, Florida Statutes,
774 are amended, and paragraph (gg) is added to that subsection, to
775 read:

776 627.351 Insurance risk apportionment plans.—

777 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

778 (a) The public purpose of this subsection is to ensure that
779 there is an orderly market for property insurance for residents
780 and businesses of this state.

781 1. The Legislature finds that private insurers are entering



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782 the Florida property insurance market ~~unwilling or unable~~ to
783 provide affordable property insurance coverage in many regions
784 of the state. The Legislature further finds that when Citizens
785 Property Insurance Corporation offers rates that are not
786 adequate to cover the average costs that are generated from the
787 claims filed by its policyholders, the deficiency may create a
788 financial burden on all other state policyholders who must
789 purchase their own insurance from private insurers at full
790 actuarial cost and pay an added fee to cover a portion of the
791 cost for claims filed by policyholders of the corporation. The
792 Legislature intends that the corporation not act as a barrier or
793 competitor to the private insurance market but be available to
794 residents of in this state only if there is no private market
795 coverage available at rates determined reasonable by the Office
796 of Insurance Regulation to the extent sought and needed. The
797 absence of affordable property insurance threatens the public
798 health, safety, and welfare and likewise threatens the economic
799 health of the state. As the corporation has continued its rapid
800 growth and exposure, it increasingly threatens state residents
801 with having to absorb an even greater financial burden than they
802 are currently bearing. The state, therefore, has a compelling
803 public interest and a public purpose to assist in assuring that
804 property in the state is insured and ~~that it is~~ insured at
805 affordable, actuarially sound, noncompetitive rates so as to
806 facilitate the remediation, reconstruction, and replacement of
807 damaged or destroyed property without overburdening the
808 policyholders of this state in order to reduce or avoid the
809 negative effects on ~~otherwise resulting to~~ the public health,
810 safety, and welfare; on, ~~to~~ the economy of the state; and on,



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811 ~~and to~~ the revenues of the state and local governments which are
812 needed to provide for the public welfare. It is necessary,
813 therefore, to make provide affordable, actuarially sound,
814 noncompetitive property insurance available to applicants who
815 are, in good faith, entitled to procure insurance through the
816 voluntary market but are unable to do so. The Legislature
817 intends, therefore, that affordable, actuarially sound,
818 noncompetitive property insurance be provided and ~~that it~~
819 continue to be provided, as long as necessary, through Citizens
820 Property Insurance Corporation, a government entity that is an
821 integral part of the state, ~~and that is~~ not a private insurance
822 company, or through referrals to private insurers participating
823 in a clearinghouse established by the corporation. To that end,
824 the corporation shall strive to promote ~~increase~~ the
825 availability of affordable and actuarially sound private
826 property insurance in this state, supplemented by coverage
827 provided by the corporation if appropriate, while achieving
828 efficiencies and economies, ~~and while~~ providing service to
829 policyholders, applicants, and agents which is no less than the
830 quality generally provided in the voluntary market, for the
831 achievement of the foregoing public purposes. Because it is
832 essential for this government entity to have the maximum
833 financial resources to pay claims following a catastrophic
834 hurricane, it is further the intent of the Legislature that the
835 corporation continue to be an integral part of the state and not
836 a private insurance company, ~~and~~ that the income of the
837 corporation be exempt from federal income taxation, and that
838 interest on the debt obligations issued by the corporation be
839 exempt from federal income taxation.



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840 2. The Residential Property and Casualty Joint Underwriting
841 Association originally created by this statute shall be known as
842 the Citizens Property Insurance Corporation. The corporation
843 shall provide ~~insurance for~~ residential and commercial property
844 insurance, for applicants who are eligible ~~entitled~~, but, in
845 good faith, are unable to procure insurance through the
846 voluntary market. The corporation shall operate pursuant to a
847 plan of operation approved by order of the Financial Services
848 Commission. The plan is subject to continuous review by the
849 commission, ~~and~~ the commission may, by order, withdraw approval
850 of all or part of a plan if the commission determines that
851 conditions have changed since approval was granted and that the
852 purposes of the plan require changes in the plan. For the
853 purposes of this subsection, residential coverage includes both
854 personal lines residential coverage, which consists of the type
855 of coverage provided by homeowner's, mobile home owner's,
856 dwelling, tenant's, condominium unit owner's, and similar
857 policies; and commercial lines residential coverage, which
858 consists of the type of coverage provided by condominium
859 association, apartment building, and similar policies.

860 3. With respect to coverage for personal lines residential
861 structures:

862 a. Effective January 1, 2014 ~~2009~~, a personal lines
863 residential structure that has a dwelling replacement cost of \$1
864 ~~\$2~~ million or more, or a single condominium unit that has a
865 combined dwelling and contents replacement cost of \$1 ~~\$2~~ million
866 or more is not eligible for coverage by the corporation. Such
867 dwellings insured by the corporation on December 31, 2013 ~~2008~~,
868 may continue to be covered by the corporation until the end of



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869 the policy term. ~~However, such dwellings may reapply and obtain~~
870 ~~coverage if the property owner provides the corporation with a~~
871 ~~sworn affidavit from one or more insurance agents, on a form~~
872 ~~provided by the corporation, stating that the agents have made~~
873 ~~their best efforts to obtain coverage and that the property has~~
874 ~~been rejected for coverage by at least one authorized insurer~~
875 ~~and at least three surplus lines insurers. If such conditions~~
876 ~~are met, the dwelling may be insured by the corporation for up~~
877 ~~to 3 years, after which time the dwelling is ineligible for~~
878 ~~coverage.~~ The office shall approve the method used by the
879 corporation for valuing the dwelling replacement costs under
880 ~~cost for the purposes of~~ this subparagraph. If a policyholder is
881 insured by the corporation before ~~prior to~~ being determined ~~to~~
882 ~~be~~ ineligible pursuant to this subparagraph and such
883 policyholder files a lawsuit challenging the determination, the
884 policyholder may remain insured by the corporation until the
885 conclusion of the litigation.

886 b. Effective January 1, 2015, a structure that has a
887 dwelling replacement cost of \$900,000 or more, or a single
888 condominium unit that has a combined dwelling and contents
889 replacement cost of \$900,000 or more, is not eligible for
890 coverage by the corporation. Such dwellings insured by the
891 corporation on December 31, 2014, may continue to be covered by
892 the corporation until the end of the policy term.

893 c. Effective January 1, 2016, a structure that has a
894 dwelling replacement cost of \$800,000 or more, or a single
895 condominium unit that has a combined dwelling and contents
896 replacement cost of \$800,000 or more, is not eligible for
897 coverage by the corporation. Such dwellings insured by the



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898 corporation on December 31, 2015, may continue to be covered by
899 the corporation until the end of the policy term.

900 d. Effective January 1, 2017, a structure that has a
901 dwelling replacement cost of \$700,000 or more, or a single
902 condominium unit that has a combined dwelling and contents
903 replacement cost of \$700,000 or more, is not eligible for
904 coverage by the corporation. Such dwellings insured by the
905 corporation on December 31, 2016, may continue to be covered by
906 the corporation until the end of the policy term.

907 e. Effective January 1, 2018, a structure that has a
908 dwelling replacement cost of \$600,000 or more, or a single
909 condominium unit that has a combined dwelling and contents
910 replacement cost of \$600,000 or more, is not eligible for
911 coverage by the corporation. Such dwellings insured by the
912 corporation on December 31, 2017, may continue to be covered by
913 the corporation until the end of the policy term.

914 f. Effective January 1, 2019, a structure that has a
915 dwelling replacement cost of \$500,000 or more, or a single
916 condominium unit that has a combined dwelling and contents
917 replacement cost of \$500,000 or more, is not eligible for
918 coverage by the corporation. Such dwellings insured by the
919 corporation on December 31, 2018, may continue to be covered by
920 the corporation until the end of the policy term.

921 4. It is the intent of the Legislature that policyholders,
922 applicants, and agents of the corporation receive service and
923 treatment of the highest possible level but never less than that
924 generally provided in the voluntary market. It is also intended
925 that the corporation be held to service standards no less than
926 those applied to insurers in the voluntary market by the office



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927 with respect to responsiveness, timeliness, customer courtesy,
928 and overall dealings with policyholders, applicants, or agents
929 of the corporation.

930 5. Any structure for which a notice of commencement has
931 been issued on or after July 1, 2013, pursuant to s. 713.135,
932 which is located seaward of the coastal construction control
933 line created pursuant to s. 161.053, is ineligible for coverage
934 through the corporation unless the structure meets the coastal
935 code-plus building code criteria developed and recommended by
936 the Florida Building Commission. ~~Effective January 1, 2009, a~~
937 ~~personal lines residential structure that is located in the~~
938 ~~"wind-borne debris region," as defined in s. 1609.2,~~
939 ~~International Building Code (2006), and that has an insured~~
940 ~~value on the structure of \$750,000 or more is not eligible for~~
941 ~~coverage by the corporation unless the structure has opening~~
942 ~~protections as required under the Florida Building Code for a~~
943 ~~newly constructed residential structure in that area. A~~
944 ~~residential structure shall be deemed to comply with this~~
945 ~~subparagraph if it has shutters or opening protections on all~~
946 ~~openings and if such opening protections complied with the~~
947 ~~Florida Building Code at the time they were installed.~~

948 6. For any claim filed under any policy of the corporation,
949 a public adjuster may not charge, agree to, or accept any
950 compensation, payment, commission, fee, or other thing of value
951 greater than 10 percent of the additional amount actually paid
952 over the amount that was originally offered by the corporation
953 for any one claim.

954 (b)1. All insurers authorized to write one or more subject
955 lines of business in this state are subject to assessment by the



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956 corporation and, for the purposes of this subsection, are
957 referred to collectively as "assessable insurers." Insurers
958 writing one or more subject lines of business in this state
959 pursuant to part VIII of chapter 626 are not assessable
960 insurers; however, ~~but~~ insureds who procure one or more subject
961 lines of business in this state pursuant to part VIII of chapter
962 626 are subject to assessment by the corporation and are
963 referred to collectively as "assessable insureds." An insurer's
964 assessment liability begins on the first day of the calendar
965 year following the year in which the insurer was issued a
966 certificate of authority to transact insurance for subject lines
967 of business in this state and terminates 1 year after the end of
968 the first calendar year during which the insurer no longer holds
969 a certificate of authority to transact insurance for subject
970 lines of business in this state.

971 2.a. All revenues, assets, liabilities, losses, and
972 expenses of the corporation shall be divided into three separate
973 accounts as follows:

974 (I) A personal lines account for personal residential
975 policies issued by the corporation, or issued by the Residential
976 Property and Casualty Joint Underwriting Association and renewed
977 by the corporation, which provides comprehensive, multiperil
978 coverage on risks that are not located in areas eligible for
979 coverage by the Florida Windstorm Underwriting Association as
980 those areas were defined on January 1, 2002, and for policies
981 that do not provide coverage for the peril of wind on risks that
982 are located in such areas;

983 (II) A commercial lines account for commercial residential
984 and commercial nonresidential policies issued by the



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985 corporation, or issued by the Residential Property and Casualty
986 Joint Underwriting Association and renewed by the corporation,
987 which provides coverage for basic property perils on risks that
988 are not located in areas eligible for coverage by the Florida
989 Windstorm Underwriting Association as those areas were defined
990 on January 1, 2002, and for policies that do not provide
991 coverage for the peril of wind on risks that are located in such
992 areas; and

993 (III) A coastal account for personal residential policies
994 and commercial residential and commercial nonresidential
995 property policies issued by the corporation, or transferred to
996 the corporation, which provides coverage for the peril of wind
997 on risks that are located in areas eligible for coverage by the
998 Florida Windstorm Underwriting Association as those areas were
999 defined on January 1, 2002. The corporation may offer policies
1000 that provide multiperil coverage and ~~the corporation~~ shall
1001 ~~continue to~~ offer policies that provide coverage only for the
1002 peril of wind for risks located in areas eligible for coverage
1003 in the coastal account. In issuing multiperil coverage, the
1004 corporation may use its approved policy forms and rates for the
1005 personal lines account. An applicant or insured who is eligible
1006 to purchase a multiperil policy from the corporation may
1007 purchase a multiperil policy from an authorized insurer without
1008 prejudice to the applicant's or insured's eligibility to
1009 prospectively purchase a policy that provides coverage only for
1010 the peril of wind from the corporation. An applicant or insured
1011 who is eligible for a corporation policy that provides coverage
1012 only for the peril of wind may elect to purchase or retain such
1013 policy and also purchase or retain coverage excluding wind from



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1014 an authorized insurer without prejudice to the applicant's or
1015 insured's eligibility to prospectively purchase a policy that
1016 provides multiperil coverage from the corporation. It is the
1017 goal of the Legislature that there be an overall average savings
1018 of 10 percent or more for a policyholder who currently has a
1019 wind-only policy with the corporation, and an ex-wind policy
1020 with a voluntary insurer or the corporation, and who obtains a
1021 multiperil policy from the corporation. It is the intent of the
1022 Legislature that the offer of multiperil coverage in the coastal
1023 account be made and implemented in a manner that does not
1024 adversely affect the tax-exempt status of the corporation or
1025 creditworthiness of or security for currently outstanding
1026 financing obligations or credit facilities of the coastal
1027 account, the personal lines account, or the commercial lines
1028 account. ~~The coastal account must also include quota share~~
1029 ~~primary insurance under subparagraph (c)2.~~ The area eligible for
1030 coverage under the coastal account also includes the area within
1031 Port Canaveral, which is bordered on the south by the City of
1032 Cape Canaveral, bordered on the west by the Banana River, and
1033 bordered on the north by Federal Government property.

1034 b. The three separate accounts must be maintained as long
1035 as financing obligations entered into by the Florida Windstorm
1036 Underwriting Association or Residential Property and Casualty
1037 Joint Underwriting Association are outstanding, in accordance
1038 with the terms of the corresponding financing documents. If the
1039 financing obligations are no longer outstanding, the corporation
1040 may use a single account for all revenues, assets, liabilities,
1041 losses, and expenses of the corporation. Consistent with this
1042 subparagraph and prudent investment policies that minimize the



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1043 cost of carrying debt, the board shall exercise its best efforts
1044 to retire existing debt or obtain the approval of necessary
1045 parties to amend the terms of existing debt, in order ~~so as~~ to
1046 structure the most efficient plan for consolidating ~~to~~
1047 ~~consolidate~~ the three separate accounts into a single account.

1048 c. Creditors of the Residential Property and Casualty Joint
1049 Underwriting Association and the accounts specified in sub-sub-
1050 subparagraphs a.(I) and (II) may have a claim against, and
1051 recourse to, those accounts and no claim against, or recourse
1052 to, the account referred to in sub-sub-subparagraph a.(III).
1053 Creditors of the Florida Windstorm Underwriting Association have
1054 a claim against, and recourse to, the account referred to in
1055 sub-sub-subparagraph a.(III) and no claim against, or recourse
1056 to, the accounts referred to in sub-sub-subparagraphs a.(I) and
1057 (II).

1058 d. Revenues, assets, liabilities, losses, and expenses not
1059 attributable to particular accounts shall be prorated among the
1060 accounts.

1061 e. The Legislature finds that the revenues of the
1062 corporation are revenues that are necessary to meet the
1063 requirements set forth in documents authorizing the issuance of
1064 bonds under this subsection.

1065 f. The income of the corporation may not inure to the
1066 benefit of any private person.

1067 3. With respect to a deficit in an account:

1068 a. After accounting for the Citizens policyholder surcharge
1069 imposed under sub-subparagraph i., if the remaining projected
1070 deficit incurred in the coastal account in a particular calendar
1071 year:



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1072 (I) Is not greater than 2 percent of the aggregate
1073 statewide direct written premium for the subject lines of
1074 business for the prior calendar year, the entire deficit shall
1075 be recovered through regular assessments of assessable insurers
1076 under paragraph (q) and assessable insureds.

1077 (II) Exceeds 2 percent of the aggregate statewide direct
1078 written premium for the subject lines of business for the prior
1079 calendar year, the corporation shall levy regular assessments on
1080 assessable insurers under paragraph (q) and on assessable
1081 insureds in an amount equal to the greater of 2 percent of the
1082 projected deficit or 2 percent of the aggregate statewide direct
1083 written premium for the subject lines of business for the prior
1084 calendar year. Any remaining projected deficit shall be
1085 recovered through emergency assessments under sub-subparagraph
1086 d.

1087 b. Each assessable insurer's share of the amount being
1088 assessed under sub-subparagraph a. must be in the proportion
1089 that the assessable insurer's direct written premium for the
1090 subject lines of business for the year preceding the assessment
1091 bears to the aggregate statewide direct written premium for the
1092 subject lines of business for that year. The assessment
1093 percentage applicable to each assessable insured is the ratio of
1094 the amount being assessed under sub-subparagraph a. to the
1095 aggregate statewide direct written premium for the subject lines
1096 of business for the prior year. Assessments levied by the
1097 corporation on assessable insurers under sub-subparagraph a.
1098 must be paid as required by the corporation's plan of operation
1099 and paragraph (q). Assessments levied by the corporation on
1100 assessable insureds under sub-subparagraph a. shall be collected



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1101 by the surplus lines agent at the time the surplus lines agent
1102 collects the surplus lines tax required by s. 626.932, and paid
1103 to the Florida Surplus Lines Service Office at the time the
1104 surplus lines agent pays the surplus lines tax to that office.
1105 Upon receipt of regular assessments from surplus lines agents,
1106 the Florida Surplus Lines Service Office shall transfer the
1107 assessments directly to the corporation as determined by the
1108 corporation.

1109 c. After accounting for the Citizens policyholder surcharge
1110 imposed under sub-subparagraph i., the remaining projected
1111 deficits in the personal lines account and in the commercial
1112 lines account in a particular calendar year shall be recovered
1113 through emergency assessments under sub-subparagraph d.

1114 d. Upon a determination by the executive director, with the
1115 concurrence of the board of governors, that a projected deficit
1116 in an account exceeds the amount that is expected to be
1117 recovered through regular assessments under sub-subparagraph a.,
1118 plus the amount that is expected to be recovered through
1119 policyholder surcharges under sub-subparagraph i., the executive
1120 director, with concurrence by the board, after verification by
1121 the office, shall levy emergency assessments for as many years
1122 as necessary to cover the deficits, to be collected by
1123 assessable insurers and the corporation and collected from
1124 assessable insureds upon issuance or renewal of policies for
1125 subject lines of business, excluding National Flood Insurance
1126 policies. The executive director shall notify the Financial
1127 Services Commission of the emergency assessments within 5 days
1128 after the board's concurrence with the executive director's
1129 determination that such assessments are necessary. The amount



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1130 collected in a particular year must be a uniform percentage of
1131 that year's direct written premium for subject lines of business
1132 and all accounts of the corporation, excluding National Flood
1133 Insurance Program policy premiums, as annually determined by the
1134 executive director, with concurrence by the board, and verified
1135 by the office. The office shall verify the arithmetic
1136 calculations involved in the board's determination within 30
1137 days after receipt of the information on which the determination
1138 was based. The office shall notify assessable insurers and the
1139 Florida Surplus Lines Service Office of the date on which
1140 assessable insurers shall begin to collect and assessable
1141 insureds shall begin to pay such assessment. The date must be at
1142 least ~~may be not less than~~ 90 days after the date the
1143 corporation levies emergency assessments pursuant to this sub-
1144 subparagraph. Notwithstanding any other provision of law, the
1145 corporation and each assessable insurer that writes subject
1146 lines of business shall collect emergency assessments from its
1147 policyholders without such obligation being affected by any
1148 credit, limitation, exemption, or deferment. Emergency
1149 assessments levied by the corporation on assessable insureds
1150 shall be collected by the surplus lines agent at the time the
1151 surplus lines agent collects the surplus lines tax required by
1152 s. 626.932 and paid to the Florida Surplus Lines Service Office
1153 at the time the surplus lines agent pays the surplus lines tax
1154 to that office. The emergency assessments collected shall be
1155 transferred directly to the corporation on a periodic basis as
1156 determined by the corporation and held by the corporation solely
1157 in the applicable account. The aggregate amount of emergency
1158 assessments levied for an account ~~under this sub-subparagraph~~ in



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1159 any calendar year may be less than but not exceed the greater of
1160 10 percent of the amount needed to cover the deficit, plus
1161 interest, fees, commissions, required reserves, and other costs
1162 associated with financing the original deficit, or 10 percent of
1163 the aggregate statewide direct written premium for subject lines
1164 of business and all accounts of the corporation for the prior
1165 year, plus interest, fees, commissions, required reserves, and
1166 other costs associated with financing the deficit.

1167 e. The corporation may pledge the proceeds of assessments,
1168 projected recoveries from the Florida Hurricane Catastrophe
1169 Fund, other insurance and reinsurance recoverables, policyholder
1170 surcharges and other surcharges, and other funds available to
1171 the corporation as the source of revenue for and to secure bonds
1172 issued under paragraph (q), bonds or other indebtedness issued
1173 under subparagraph (c)3., or lines of credit or other financing
1174 mechanisms issued or created under this subsection, or to retire
1175 any other debt incurred as a result of deficits or events giving
1176 rise to deficits, or in any other way that the executive
1177 director, with the concurrence of the board, determines will
1178 efficiently recover such deficits. The purpose of the lines of
1179 credit or other financing mechanisms is to provide additional
1180 resources to assist the corporation in covering claims and
1181 expenses attributable to a catastrophe. As used in this
1182 subsection, the term "assessments" includes regular assessments
1183 under sub-subparagraph a. or subparagraph (q)1. and emergency
1184 assessments under sub-subparagraph d. Emergency assessments
1185 collected under sub-subparagraph d. are not part of an insurer's
1186 rates, are not premium, and are not subject to premium tax,
1187 fees, or commissions; however, failure to pay the emergency



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1188 assessment shall be treated as failure to pay premium. The
1189 emergency assessments ~~under sub-subparagraph d.~~ shall continue
1190 as long as any bonds issued or other indebtedness incurred with
1191 respect to a deficit for which the assessment was imposed remain
1192 outstanding, unless adequate provision has been made for the
1193 payment of such bonds or other indebtedness pursuant to the
1194 documents governing such bonds or indebtedness.

1195 f. As used in this subsection for purposes of any deficit
1196 incurred on or after January 25, 2007, the term "subject lines
1197 of business" means insurance written by assessable insurers or
1198 procured by assessable insureds for all property and casualty
1199 lines of business in this state, but not including workers'
1200 compensation or medical malpractice. As used in this sub-
1201 subparagraph, the term "property and casualty lines of business"
1202 includes all lines of business identified on Form 2, Exhibit of
1203 Premiums and Losses, in the annual statement required of
1204 authorized insurers under s. 624.424 and any rule adopted under
1205 this section, except for those lines identified as accident and
1206 health insurance and except for policies written under the
1207 National Flood Insurance Program or the Federal Crop Insurance
1208 Program. For purposes of this sub-subparagraph, the term
1209 "workers' compensation" includes both workers' compensation
1210 insurance and excess workers' compensation insurance.

1211 g. The Florida Surplus Lines Service Office shall annually
1212 determine ~~annually~~ the aggregate statewide written premium in
1213 subject lines of business procured by assessable insureds and
1214 report that information to the corporation in a form and at a
1215 time the corporation specifies to ensure that the corporation
1216 can meet the requirements of this subsection and the



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1217 corporation's financing obligations.

1218 h. The Florida Surplus Lines Service Office shall verify
1219 the proper application by surplus lines agents of assessment
1220 percentages for regular assessments and emergency assessments
1221 levied under this subparagraph on assessable insureds and assist
1222 the corporation in ensuring the accurate, timely collection and
1223 payment of assessments by surplus lines agents as required by
1224 the corporation.

1225 i. ~~In 2008 or thereafter,~~ Upon a determination by the board
1226 of governors that an account has a projected deficit, the board
1227 shall levy a Citizens policyholder surcharge against all
1228 policyholders of the corporation.

1229 (I) The surcharge shall be levied as a uniform percentage
1230 ~~of the premium for the policy~~ of up to 15 percent of the policy
1231 ~~such~~ premium, which funds shall be used to offset the deficit.

1232 (II) The surcharge is payable upon cancellation or
1233 termination of the policy, upon renewal of the policy, or upon
1234 issuance of a new policy by the corporation within the first 12
1235 months after the date of the levy or the period of time
1236 necessary to fully collect the surcharge amount.

1237 (III) The corporation may not levy any regular assessments
1238 under paragraph (q) pursuant to sub-subparagraph a. or sub-
1239 subparagraph b. with respect to a particular year's deficit
1240 until the corporation has first levied the full amount of the
1241 surcharge authorized by this sub-subparagraph.

1242 (IV) The surcharge is not considered premium and is not
1243 subject to commissions, fees, or premium taxes. However, failure
1244 to pay the surcharge shall be treated as failure to pay premium.

1245 j. If the amount of any assessments or surcharges collected



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1246 from corporation policyholders, assessable insurers or their
1247 policyholders, or assessable insureds exceeds the amount of the
1248 deficits, such excess amounts shall be remitted to and retained
1249 by the corporation in a reserve to be used by the corporation,
1250 as determined by the executive director, with the concurrence of
1251 the board of governors, and approved by the office, to pay
1252 claims or reduce any past, present, or future plan-year deficits
1253 or to reduce outstanding debt.

1254 (c) The corporation's plan of operation:

1255 1. Must provide for adoption of residential property and
1256 casualty insurance policy forms and commercial residential and
1257 nonresidential property insurance forms, which must be approved
1258 by the office before use. The corporation shall adopt the
1259 following policy forms:

1260 a. Standard personal lines policy forms that are
1261 comprehensive multiperil policies providing full coverage of a
1262 residential property equivalent to the coverage provided in the
1263 private insurance market under an HO-3, HO-4, or HO-6 policy.

1264 b. Basic personal lines policy forms that are policies
1265 similar to an HO-8 policy or a dwelling fire policy that provide
1266 coverage meeting the requirements of the secondary mortgage
1267 market, but which is more limited than the coverage under a
1268 standard policy.

1269 c. Commercial lines residential and nonresidential policy
1270 forms that are generally similar to the basic perils of full
1271 coverage obtainable for commercial residential structures and
1272 commercial nonresidential structures in the admitted voluntary
1273 market.

1274 d. Personal lines and commercial lines residential property



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1275 insurance forms that cover the peril of wind only. Such ~~The~~
1276 forms are applicable only to residential properties located in
1277 areas eligible for coverage under the coastal account referred
1278 to in sub-subparagraph (b)2.a.

1279 e. Commercial lines nonresidential property insurance forms
1280 that cover the peril of wind only. Such ~~The~~ forms are applicable
1281 only to nonresidential properties located in areas eligible for
1282 coverage under the coastal account referred to in sub-
1283 subparagraph (b)2.a.

1284 f. The corporation may adopt variations of the policy forms
1285 listed in sub-subparagraphs a.-e. which contain more restrictive
1286 coverage.

1287 g. Effective January 1, 2013, the corporation shall offer a
1288 basic personal lines policy similar to an HO-8 policy with
1289 dwelling repair based on common construction materials and
1290 methods.

1291 2. Must provide that the corporation and an authorized
1292 insurer may enter into a risk-sharing agreement for the purpose
1293 of reducing the corporation's exposure. As used in this
1294 subparagraph, the term "risk-sharing agreement" means an
1295 agreement between the corporation and an authorized insurer for
1296 the corporation to retain part, but not all, of the risk for a
1297 specified group of policies or specified perils within a group
1298 of policies, as part of the terms for removal of policies from
1299 the corporation.

1300 a. Entering into a risk-sharing agreement is voluntary and
1301 at the discretion of the corporation and the authorized insurer.
1302 To avoid unnecessary expense, the executive director, with
1303 concurrence of the board of governors, may limit the



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1304 corporation's participation in risk-sharing agreements to those
1305 participants capable and willing to assume a minimum of 25
1306 percent of the exposure on at least 100,000 policies and may
1307 specify other limitations. A risk-sharing agreement in which the
1308 corporation retains part of the risk may not exceed 5 years.

1309 b. The risk-sharing agreement may cover policies in any
1310 account and may cover any perils. The corporation may act as a
1311 reinsurer or a cedent under a risk sharing agreement or an
1312 excess of loss agreement. If the corporation is the reinsurer,
1313 the insurance policy forms and endorsements must be approved by
1314 the office, cover all perils that are the subject of the risk-
1315 sharing agreement, and cover at least the same limits as the
1316 corporation policies being replaced.

1317 c. The terms of each risk-sharing agreement must ensure
1318 that the consideration received by the corporation is
1319 commensurate with the risk retained by the corporation and the
1320 risk assumed by the authorized insurer. The corporation may not
1321 share risk for bad faith.

1322 d. The risk-sharing agreement must specify the proportion
1323 of exposure that the authorized insurer reports to the Florida
1324 Hurricane Catastrophe Fund and the exposure retained by the
1325 corporation. Each shall pay premium and receive reimbursements
1326 from the fund for the exposure that they retain or assume as
1327 provided in the risk-sharing agreement. The risk retained or
1328 assumed is eligible for coverage by the fund and is not
1329 considered reinsurance for purposes of coverage by the fund.
1330 However, the authorized insurer and the corporation may report
1331 participation in the risk sharing agreement on their financial
1332 statements as reinsurance if appropriate according to the



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1333 characteristics of the agreement based on statutory accounting
1334 rules and instructions.

1335 e. Notwithstanding any other provision of law:

1336 (I) Policies offered coverage by the corporation or an
1337 authorized insurer through a risk-sharing agreement are not
1338 eligible for coverage by the corporation outside of the
1339 agreement; and

1340 (II) A risk-sharing agreement between the corporation and
1341 an authorized insurer is not subject to the requirements of a
1342 take-out or keep-out program under ss. 627.3517 and this
1343 subsection, except that the agreement must be filed by the
1344 authorized insurer with the office for review and approval
1345 before the execution of the agreement by the insurer.

1346 f. To ensure that exposures are accurately reported to the
1347 Florida Hurricane Catastrophe Fund, the corporation and each
1348 insurer participating in a risk-sharing agreement under this
1349 subparagraph must report its exposure under covered policies to
1350 the fund as required under s. 215.555(5)(c), including the
1351 requirement that, by September 1 of each year, each insurer
1352 notify the board of its insured values under covered policies as
1353 of June 30 of that year. Each report must also specify the
1354 percentage of liability applicable to the corporation and the
1355 percentage applicable to the insurer. Pursuant to its authority
1356 under s. 215.555, the State Board of Administration shall adopt
1357 rules to administer this sub-subparagraph.

1358 ~~2. Must provide that the corporation adopt a program in~~
1359 ~~which the corporation and authorized insurers enter into quota~~
1360 ~~share primary insurance agreements for hurricane coverage, as~~
1361 ~~defined in s. 627.4025(2)(a), for eligible risks, and adopt~~



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1362 ~~property insurance forms for eligible risks which cover the~~
1363 ~~peril of wind only.~~

1364 ~~a. As used in this subsection, the term:~~

1365 ~~(I) "Quota share primary insurance" means an arrangement in~~
1366 ~~which the primary hurricane coverage of an eligible risk is~~
1367 ~~provided in specified percentages by the corporation and an~~
1368 ~~authorized insurer. The corporation and authorized insurer are~~
1369 ~~each solely responsible for a specified percentage of hurricane~~
1370 ~~coverage of an eligible risk as set forth in a quota share~~
1371 ~~primary insurance agreement between the corporation and an~~
1372 ~~authorized insurer and the insurance contract. The~~
1373 ~~responsibility of the corporation or authorized insurer to pay~~
1374 ~~its specified percentage of hurricane losses of an eligible~~
1375 ~~risk, as set forth in the agreement, may not be altered by the~~
1376 ~~inability of the other party to pay its specified percentage of~~
1377 ~~losses. Eligible risks that are provided hurricane coverage~~
1378 ~~through a quota share primary insurance arrangement must be~~
1379 ~~provided policy forms that set forth the obligations of the~~
1380 ~~corporation and authorized insurer under the arrangement,~~
1381 ~~clearly specify the percentages of quota share primary insurance~~
1382 ~~provided by the corporation and authorized insurer, and~~
1383 ~~conspicuously and clearly state that the authorized insurer and~~
1384 ~~the corporation may not be held responsible beyond their~~
1385 ~~specified percentage of coverage of hurricane losses.~~

1386 ~~(II) "Eligible risks" means personal lines residential and~~
1387 ~~commercial lines residential risks that meet the underwriting~~
1388 ~~criteria of the corporation and are located in areas that were~~
1389 ~~eligible for coverage by the Florida Windstorm Underwriting~~
1390 ~~Association on January 1, 2002.~~



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1391 ~~b. The corporation may enter into quota share primary~~
1392 ~~insurance agreements with authorized insurers at corporation~~
1393 ~~coverage levels of 90 percent and 50 percent.~~

1394 ~~e. If the corporation determines that additional coverage~~
1395 ~~levels are necessary to maximize participation in quota share~~
1396 ~~primary insurance agreements by authorized insurers, the~~
1397 ~~corporation may establish additional coverage levels. However,~~
1398 ~~the corporation's quota share primary insurance coverage level~~
1399 ~~may not exceed 90 percent.~~

1400 ~~d. Any quota share primary insurance agreement entered into~~
1401 ~~between an authorized insurer and the corporation must provide~~
1402 ~~for a uniform specified percentage of coverage of hurricane~~
1403 ~~losses, by county or territory as set forth by the corporation~~
1404 ~~board, for all eligible risks of the authorized insurer covered~~
1405 ~~under the agreement.~~

1406 ~~e. Any quota share primary insurance agreement entered into~~
1407 ~~between an authorized insurer and the corporation is subject to~~
1408 ~~review and approval by the office. However, such agreement shall~~
1409 ~~be authorized only as to insurance contracts entered into~~
1410 ~~between an authorized insurer and an insured who is already~~
1411 ~~insured by the corporation for wind coverage.~~

1412 ~~f. For all eligible risks covered under quota share primary~~
1413 ~~insurance agreements, the exposure and coverage levels for both~~
1414 ~~the corporation and authorized insurers shall be reported by the~~
1415 ~~corporation to the Florida Hurricane Catastrophe Fund. For all~~
1416 ~~policies of eligible risks covered under such agreements, the~~
1417 ~~corporation and the authorized insurer must maintain complete~~
1418 ~~and accurate records for the purpose of exposure and loss~~
1419 ~~reimbursement audits as required by fund rules. The corporation~~



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1420 ~~and the authorized insurer shall each maintain duplicate copies~~
1421 ~~of policy declaration pages and supporting claims documents.~~

1422 ~~g. The corporation board shall establish in its plan of~~
1423 ~~operation standards for quota share agreements which ensure that~~
1424 ~~there is no discriminatory application among insurers as to the~~
1425 ~~terms of the agreements, pricing of the agreements, incentive~~
1426 ~~provisions if any, and consideration paid for servicing policies~~
1427 ~~or adjusting claims.~~

1428 ~~h. The quota share primary insurance agreement between the~~
1429 ~~corporation and an authorized insurer must set forth the~~
1430 ~~specific terms under which coverage is provided, including, but~~
1431 ~~not limited to, the sale and servicing of policies issued under~~
1432 ~~the agreement by the insurance agent of the authorized insurer~~
1433 ~~producing the business, the reporting of information concerning~~
1434 ~~eligible risks, the payment of premium to the corporation, and~~
1435 ~~arrangements for the adjustment and payment of hurricane claims~~
1436 ~~incurred on eligible risks by the claims adjuster and personnel~~
1437 ~~of the authorized insurer. Entering into a quota sharing~~
1438 ~~insurance agreement between the corporation and an authorized~~
1439 ~~insurer is voluntary and at the discretion of the authorized~~
1440 ~~insurer.~~

1441 ~~3.a. May provide that the corporation may employ or~~
1442 ~~otherwise contract with individuals or other entities to provide~~
1443 ~~administrative or professional services that may be appropriate~~
1444 ~~to effectuate the plan. The corporation may borrow funds by~~
1445 ~~issuing bonds or by incurring other indebtedness, and shall have~~
1446 ~~other powers reasonably necessary to effectuate the requirements~~
1447 ~~of this subsection, including, without limitation, the power to~~
1448 ~~issue bonds and incur other indebtedness in order to refinance~~



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1449 outstanding bonds or other indebtedness. The corporation may
1450 seek judicial validation of its bonds or other indebtedness
1451 under chapter 75. The corporation may issue bonds or incur other
1452 indebtedness, or have bonds issued on its behalf by a unit of
1453 local government pursuant to subparagraph (q)2. in the absence
1454 of a hurricane or other weather-related event, upon a
1455 determination by the corporation, subject to approval by the
1456 office, that such action would enable it to efficiently meet the
1457 financial obligations of the corporation and that such
1458 financings are reasonably necessary to effectuate the
1459 requirements of this subsection. The corporation may take all
1460 actions needed to facilitate tax-free status for such bonds or
1461 indebtedness, including formation of trusts or other affiliated
1462 entities. The corporation may pledge assessments, projected
1463 recoveries from the Florida Hurricane Catastrophe Fund, other
1464 reinsurance recoverables, Citizens policyholder surcharges and
1465 other surcharges, and other funds available to the corporation
1466 as security for bonds or other indebtedness. In recognition of
1467 s. 10, Art. I of the State Constitution, prohibiting the
1468 impairment of obligations of contracts, it is the intent of the
1469 Legislature that ~~no~~ action not be taken whose purpose is to
1470 impair any bond indenture or financing agreement or any revenue
1471 source committed by contract to such bond or other indebtedness.

1472 b. May provide that the corporation employ or otherwise
1473 contract with individuals or other entities to provide
1474 administrative or professional services that may be appropriate
1475 to effectuate the plan. To ensure that the corporation is
1476 operating in an efficient and economic manner while providing
1477 quality service to policyholders, applicants, and agents, the



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1478 board shall commission an independent third-party consultant
1479 having expertise in insurance company management or insurance
1480 company management consulting to prepare a report and make
1481 recommendations on the relative costs and benefits of
1482 outsourcing various policy issuance and service functions to
1483 private servicing carriers or entities performing similar
1484 functions in the private market for a fee~~r~~ rather than
1485 performing such functions in-house. In making such
1486 recommendations, the consultant shall consider how other
1487 residual markets, both in this state and around the country,
1488 outsource appropriate functions or use servicing carriers to
1489 better match expenses with revenues that fluctuate based on a
1490 widely varying policy count. The report must be completed by
1491 July 1, 2012. Upon receiving the report, the executive director,
1492 with the concurrence of the board, shall develop a plan to
1493 implement the report and submit the plan for review,
1494 modification, and approval to the Financial Services Commission.
1495 Upon the commission's approval of the plan, the board shall
1496 begin implementing the plan by January 1, 2013.

1497 4. Must require that the corporation operate subject to the
1498 supervision and approval of a board of governors consisting of
1499 eight individuals who are residents of this state and who are~~r~~
1500 from different geographical areas of the ~~this~~ state.

1501 a. The Governor, the Chief Financial Officer, the President
1502 of the Senate, and the Speaker of the House of Representatives
1503 shall each appoint two members of the board. All board members,
1504 except those appointed by the speaker, must be confirmed by the
1505 Senate during the legislative session following their
1506 appointment. At least one of the two members appointed by each



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1507 appointing officer must have demonstrated expertise in insurance
1508 and must be ~~is~~ deemed to be within the scope of the exemption
1509 provided under ~~in~~ s. 112.313(7) (b). The Chief Financial Officer
1510 shall designate one of the appointees as chair for the purpose
1511 of presiding over the orderly conduct of meetings. An appointee
1512 serves as chair for no more than one term. All board members
1513 serve at the pleasure of the appointing officer. All members of
1514 the board are subject to removal at will by the officers who
1515 appointed them. All board members, including the chair, shall
1516 ~~must~~ be appointed ~~to serve~~ for 3-year terms beginning annually
1517 on a date designated by the plan. ~~However, for the first term~~
1518 ~~beginning on or after July 1, 2009, each appointing officer~~
1519 ~~shall appoint one member of the board for a 2-year term and one~~
1520 ~~member for a 3-year term.~~ A board vacancy shall be filled for
1521 the unexpired term by the appointing officer. A board member may
1522 not serve for more than two terms, except that a board member
1523 appointed to fill an unexpired term created by a vacancy may be
1524 appointed for two subsequent terms. The Chief Financial Officer
1525 shall appoint a technical advisory group to provide information
1526 and advice to the executive director and the board in connection
1527 with the corporation's board's duties under this subsection. The
1528 executive director shall be appointed by and serve at the
1529 pleasure of the Governor and the Chief Financial Officer. ~~and~~
1530 Senior managers of the corporation shall be appointed by the
1531 executive director, with the concurrence of ~~engaged by the~~
1532 board, and serve at the pleasure of the executive director
1533 ~~board.~~ Appointment of the Any executive director ~~appointed on or~~
1534 ~~after July 1, 2006,~~ is subject to confirmation by the Senate
1535 upon original appointment and upon the election or reelection of



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1536 the Governor and Chief Financial Officer if retained. The
1537 executive director is responsible for employing other staff ~~as~~
1538 the corporation may require, subject to review and concurrence
1539 by the board.

1540 b. The board shall create a Market Accountability Advisory
1541 Committee to assist the corporation in developing awareness of
1542 its rates and its customer and agent service levels in
1543 relationship to the voluntary market insurers writing similar
1544 coverage.

1545 (I) The members of the advisory committee consist of the
1546 following 11 persons, one of whom must be elected chair by the
1547 members of the committee: four representatives, one appointed by
1548 the Florida Association of Insurance Agents, one by the Florida
1549 Association of Insurance and Financial Advisors, one by the
1550 Professional Insurance Agents of Florida, and one by the Latin
1551 American Association of Insurance Agencies; three
1552 representatives appointed by the insurers with the three highest
1553 voluntary market share of residential property insurance
1554 business in the state; one representative from the Office of
1555 Insurance Regulation; one consumer appointed by the board who is
1556 insured by the corporation at the time of appointment to the
1557 committee; one representative appointed by the Florida
1558 Association of Realtors; and one representative appointed by the
1559 Florida Bankers Association. All members shall be appointed to
1560 3-year terms, serve at the pleasure of the board of governors,
1561 and may serve for consecutive terms.

1562 (II) The committee shall report to the corporation at each
1563 board meeting on insurance market issues that ~~which~~ may include
1564 rates and rate competition within ~~with~~ the voluntary market;



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1565 service, including policy issuance, claims processing, and
1566 general responsiveness to policyholders, applicants, and agents;
1567 and matters relating to depopulation.

1568 5. Must provide a procedure for determining the eligibility
1569 of a risk for coverage by the corporation which applies to both
1570 new and renewal policies, as follows:

1571 a. Subject to s. 627.3517, with respect to personal lines
1572 residential risks, if the risk is offered coverage from an
1573 authorized insurer at the insurer's approved rate under a
1574 standard policy including wind coverage or, if consistent with
1575 the insurer's underwriting rules as filed with the office, a
1576 basic policy including wind coverage, ~~for a new application to~~
1577 ~~the corporation for coverage~~, the risk is not eligible for any
1578 policy issued by the corporation unless the premium for coverage
1579 from the authorized insurer is more than 15 percent greater than
1580 the premium for comparable coverage from the corporation. If the
1581 risk is not able to obtain such offer, the risk is eligible for
1582 a standard policy including wind coverage or a basic policy
1583 including wind coverage issued by the corporation; however, if
1584 the risk could not be insured under a standard policy including
1585 wind coverage regardless of market conditions, the risk is
1586 eligible for a basic policy including wind coverage unless
1587 rejected under subparagraph 8. ~~However, a policyholder of the~~
1588 ~~corporation or a policyholder removed from the corporation~~
1589 ~~through an assumption agreement until the end of the assumption~~
1590 ~~period remains eligible for coverage from the corporation~~
1591 ~~regardless of any offer of coverage from an authorized insurer~~
1592 ~~or surplus lines insurer.~~ The corporation shall determine the
1593 type of policy to be provided on the basis of objective



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1594 standards specified in the underwriting manual and based on
1595 generally accepted underwriting practices.

1596 (I) If the risk accepts an offer of coverage through the
1597 market assistance plan or through a mechanism established by the
1598 corporation before a policy is issued to the risk by the
1599 corporation or during the first 30 days of coverage by the
1600 corporation, and the producing agent who submitted the
1601 application to the plan or to the corporation is not currently
1602 appointed by the insurer, the insurer shall:

1603 (A) Pay to the producing agent of record ~~of the policy~~ for
1604 the first year, an amount that is the greater of the insurer's
1605 usual and customary commission for the type of policy written or
1606 a fee equal to the usual and customary commission of the
1607 corporation; or

1608 (B) Offer to allow the producing agent of record ~~of the~~
1609 ~~policy~~ to continue servicing the policy for at least 1 year and
1610 offer to pay the agent the greater of the insurer's or the
1611 corporation's usual and customary commission for the type of
1612 policy written.

1613
1614 If the producing agent is unwilling or unable to accept
1615 appointment, the new insurer shall pay the agent in accordance
1616 with sub-sub-sub-subparagraph (A).

1617 (II) If the corporation enters into a contractual agreement
1618 for a take-out plan, the producing agent of record of the
1619 corporation policy is entitled to retain any unearned commission
1620 on the policy, and the insurer shall:

1621 (A) Pay to the producing agent of record, for the first
1622 year, an amount that is the greater of the insurer's usual and



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1623 customary commission for the type of policy written or a fee
1624 equal to the usual and customary commission of the corporation;
1625 or

1626 (B) Offer to allow the producing agent of record to
1627 continue servicing the policy for at least 1 year and offer to
1628 pay the agent the greater of the insurer's or the corporation's
1629 usual and customary commission for the type of policy written.

1630

1631 If the producing agent is unwilling or unable to accept
1632 appointment, the new insurer shall pay the agent in accordance
1633 with sub-sub-sub-subparagraph (A).

1634 b. With respect to commercial lines residential risks, ~~for~~
1635 ~~a new application to the corporation for coverage,~~ if the risk
1636 is offered coverage under a policy including wind coverage from
1637 an authorized insurer at its approved rate, the risk is not
1638 eligible for a policy issued by the corporation unless the
1639 premium for coverage from the authorized insurer is more than 15
1640 percent greater than the premium for comparable coverage from
1641 the corporation. If the risk is not able to obtain any such
1642 offer, the risk is eligible for a policy including wind coverage
1643 issued by the corporation. ~~However, a policyholder of the~~
1644 ~~corporation or a policyholder removed from the corporation~~
1645 ~~through an assumption agreement until the end of the assumption~~
1646 ~~period remains eligible for coverage from the corporation~~
1647 ~~regardless of an offer of coverage from an authorized insurer or~~
1648 ~~surplus lines insurer.~~

1649 (I) If the risk accepts an offer of coverage through the
1650 market assistance plan or through a mechanism established by the
1651 corporation before a policy is issued to the risk by the



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1652 corporation or during the first 30 days of coverage by the
1653 corporation, and the producing agent who submitted the
1654 application to the plan or the corporation is not currently
1655 appointed by the insurer, the insurer shall:

1656 (A) Pay to the producing agent of record ~~of the policy~~, for
1657 the first year, an amount that is the greater of the insurer's
1658 usual and customary commission for the type of policy written or
1659 a fee equal to the usual and customary commission of the
1660 corporation; or

1661 (B) Offer to allow the producing agent of record ~~of the~~
1662 ~~policy~~ to continue servicing the policy for at least 1 year and
1663 offer to pay the agent the greater of the insurer's or the
1664 corporation's usual and customary commission for the type of
1665 policy written.

1666
1667 If the producing agent is unwilling or unable to accept
1668 appointment, the new insurer shall pay the agent in accordance
1669 with sub-sub-sub-subparagraph (A).

1670 (II) If the corporation enters into a contractual agreement
1671 for a take-out plan, the producing agent of record of the
1672 corporation policy is entitled to retain any unearned commission
1673 on the policy, and the insurer shall:

1674 (A) Pay to the producing agent of record, for the first
1675 year, an amount that is the greater of the insurer's usual and
1676 customary commission for the type of policy written or a fee
1677 equal to the usual and customary commission of the corporation;
1678 or

1679 (B) Offer to allow the producing agent of record to
1680 continue servicing the policy for at least 1 year and offer to



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1681 pay the agent the greater of the insurer's or the corporation's
1682 usual and customary commission for the type of policy written.

1683
1684 If the producing agent is unwilling or unable to accept
1685 appointment, the new insurer shall pay the agent in accordance
1686 with sub-sub-sub-subparagraph (A).

1687 c. For purposes of determining comparable coverage under
1688 sub-subparagraphs a. and b., the comparison must be based on
1689 those forms and coverages that are reasonably comparable. The
1690 corporation may rely on a determination of comparable coverage
1691 and premium made by the producing agent who submits the
1692 application to the corporation, made in the agent's capacity as
1693 the corporation's agent. A comparison may be made solely of the
1694 premium with respect to the main building or structure ~~only~~ on
1695 the following basis: the same coverage A or other building
1696 limits; the same percentage hurricane deductible that applies on
1697 an annual basis or that applies to each hurricane for commercial
1698 residential property; the same percentage of ordinance and law
1699 coverage, if the same limit is offered by both the corporation
1700 and the authorized insurer; the same mitigation credits, to the
1701 extent the same types of credits are offered both by the
1702 corporation and the authorized insurer; the same method for loss
1703 payment, such as replacement cost or actual cash value, if the
1704 same method is offered both by the corporation and the
1705 authorized insurer in accordance with underwriting rules; and
1706 any other form or coverage that is reasonably comparable as
1707 determined by the board. If an application is submitted to the
1708 corporation for wind-only coverage in the coastal account, the
1709 premium for the corporation's wind-only policy plus the premium



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1710 for the ex-wind policy that is offered by an authorized insurer
1711 to the applicant must be compared to the premium for multiperil
1712 coverage offered by an authorized insurer, subject to the
1713 standards for comparison specified in this subparagraph. If the
1714 corporation or the applicant requests from the authorized
1715 insurer a breakdown of the premium of the offer by types of
1716 coverage so that a comparison may be made by the corporation or
1717 its agent and the authorized insurer refuses or is unable to
1718 provide such information, the corporation may treat the offer as
1719 not being an offer of coverage from an authorized insurer at the
1720 insurer's approved rate.

1721 6. Must include rules for classifications of risks and
1722 rates.

1723 7. Must provide that if premium and investment income for
1724 an account attributable to a particular calendar year are in
1725 excess of projected losses and expenses for the account
1726 attributable to that year, such excess must ~~shall~~ be held in
1727 surplus in the account. Such surplus must be available to defray
1728 deficits in that account as to future years and used for that
1729 purpose before assessing assessable insurers and assessable
1730 insureds as to any calendar year.

1731 8. Must provide objective criteria and procedures that are
1732 ~~to be~~ uniformly applied to all applicants in determining whether
1733 an individual risk is so hazardous as to be uninsurable. In
1734 making this determination and in establishing the criteria and
1735 procedures, the following must be considered:

1736 a. Whether the likelihood of a loss for the individual risk
1737 is substantially higher than for other risks of the same class;
1738 and



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1739 b. Whether the uncertainty associated with the individual
1740 risk is such that an appropriate premium cannot be determined.

1741
1742 The acceptance or rejection of a risk by the corporation shall
1743 be construed as the private placement of insurance, and the
1744 provisions of chapter 120 do not apply.

1745 9. Must provide that the corporation make its best efforts
1746 to procure catastrophe reinsurance at reasonable rates, to cover
1747 its projected 100-year probable maximum loss as determined by
1748 the board of governors.

1749 10. Must provide that the policies issued by the
1750 corporation ~~must~~ provide that if the corporation or the market
1751 assistance plan obtains an offer from an authorized insurer to
1752 cover the risk at its approved rates, the risk is no longer
1753 eligible for renewal through the corporation, except as
1754 otherwise provided in this subsection.

1755 11. Must provide that corporation policies and applications
1756 ~~must~~ include a notice that the corporation policy could, under
1757 this section, be replaced with a policy issued by an authorized
1758 insurer which does not provide coverage identical to the
1759 coverage provided by the corporation. The notice must also
1760 specify that acceptance of corporation coverage creates a
1761 conclusive presumption that the applicant or policyholder is
1762 aware of this potential.

1763 12. May establish, subject to approval by the office,
1764 different eligibility requirements and operational procedures
1765 for any line or type of coverage for any specified county or
1766 area if the board determines that such changes are justified due
1767 to the voluntary market being sufficiently stable and



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1768 competitive in such area or for such line or type of coverage
1769 and that consumers who, in good faith, are unable to obtain
1770 insurance through the voluntary market through ordinary methods
1771 continue to have access to coverage from the corporation. If
1772 coverage is sought in connection with a real property transfer,
1773 the requirements and procedures may not provide an effective
1774 date of coverage later than the date of the closing of the
1775 transfer as established by the transferor, the transferee, and,
1776 if applicable, the lender.

1777 13. Must provide that, with respect to the coastal account,
1778 any assessable insurer that has ~~with~~ a surplus as to
1779 policyholders of \$25 million or less writing 25 percent or more
1780 of its total countrywide property insurance premiums in this
1781 state may ~~petition the office~~, within the first 90 days of each
1782 calendar year, petition the office to qualify as a limited
1783 apportionment company. A regular assessment levied by the
1784 corporation on a limited apportionment company for a deficit
1785 incurred by the corporation for the coastal account may be paid
1786 to the corporation on a monthly basis as the assessments are
1787 collected by the limited apportionment company from its
1788 insureds. ~~The, but a~~ limited apportionment company must begin
1789 collecting the regular assessments within ~~not later than~~ 90 days
1790 after the regular assessments are levied by the corporation, and
1791 the regular assessments must be paid in full within 15 months
1792 after being levied by the corporation. A limited apportionment
1793 company shall collect from its policyholders any emergency
1794 assessment imposed under sub-subparagraph (b)3.d. The plan must
1795 provide that, if the office determines that any regular
1796 assessment will result in an impairment of the surplus of a



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1797 limited apportionment company, the office may direct that all or
1798 part of such assessment be deferred as provided in subparagraph
1799 (q)4. However, an emergency assessment to be collected from
1800 policyholders under sub-subparagraph (b)3.d. may not be limited
1801 or deferred.

1802 14. Must provide that the corporation appoint as its
1803 licensed agents only those agents who at the time of initial
1804 appointment also hold an appointment as defined in s. 626.015(3)
1805 with an insurer who ~~at the time of the agent's initial~~
1806 ~~appointment by the corporation~~ is authorized to write and is
1807 actually writing personal lines residential property coverage,
1808 commercial residential property coverage, or commercial
1809 nonresidential property coverage within the state. As a
1810 condition of continued appointment, agents of the corporation
1811 must maintain appropriate documentation specified by the
1812 corporation which warrants and certifies that alternative
1813 coverage was annually sought for each risk placed by that agent
1814 with the corporation in accordance with s. 627.3518. After
1815 January 1, 2014, if an agent places a policy with the
1816 corporation which was ineligible for coverage based on
1817 eligibility standards at the time of placement, agent
1818 commissions may not be paid on that policy.

1819 15. Must provide a premium payment plan option to its
1820 policyholders which, at a minimum, allows for quarterly and
1821 semiannual payment of premiums. A monthly payment plan may, but
1822 is not required to, be offered.

1823 16. Must limit coverage on mobile homes or manufactured
1824 homes built before 1994 to actual cash value of the dwelling
1825 rather than replacement costs of the dwelling.



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1826 17. May provide such limits of coverage as the board
1827 determines, consistent with the requirements of this subsection.

1828 18. May require commercial property to meet specified
1829 hurricane mitigation construction features as a condition of
1830 eligibility for coverage.

1831 19. Must provide that new or renewal policies issued by the
1832 corporation on or after January 1, 2012, which cover sinkhole
1833 loss do not include coverage for any loss to appurtenant
1834 structures, driveways, sidewalks, decks, or patios that are
1835 directly or indirectly caused by sinkhole activity. The
1836 corporation shall exclude such coverage using a notice of
1837 coverage change, which may be included with the policy renewal,
1838 and not by issuance of a notice of nonrenewal of the excluded
1839 coverage upon renewal of the current policy.

1840 20. Must, as of July ~~January~~ 1, 2014 ~~2012~~, ~~must~~ require
1841 that the agent obtain from an applicant for coverage from the
1842 corporation an acknowledgment signed by the applicant, which
1843 includes, at a minimum, the following statement:

1844
1845 ACKNOWLEDGMENT OF POTENTIAL SURCHARGE AND ASSESSMENT LIABILITY:

1846
1847 1. AS A POLICYHOLDER OF CITIZENS PROPERTY INSURANCE
1848 CORPORATION, I UNDERSTAND THAT IF THE CORPORATION SUSTAINS A
1849 DEFICIT AS A RESULT OF HURRICANE LOSSES OR FOR ANY OTHER REASON,
1850 MY POLICY COULD BE SUBJECT TO SURCHARGES, WHICH WILL BE DUE AND
1851 PAYABLE UPON RENEWAL, CANCELLATION, OR TERMINATION OF THE
1852 POLICY, AND THAT THE SURCHARGES COULD BE AS HIGH AS 45 PERCENT
1853 OF MY PREMIUM, OR A DIFFERENT AMOUNT AS IMPOSED BY THE FLORIDA
1854 LEGISLATURE.



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1855 2. I UNDERSTAND THAT I CAN AVOID THE CITIZENS POLICYHOLDER
1856 SURCHARGE, WHICH COULD BE AS HIGH AS 45 PERCENT OF MY PREMIUM,
1857 BY OBTAINING COVERAGE FROM A PRIVATE MARKET INSURER AND THAT TO
1858 BE ELIGIBLE FOR COVERAGE BY CITIZENS I MUST FIRST TRY TO OBTAIN
1859 PRIVATE MARKET COVERAGE BEFORE APPLYING FOR OR RENEWING COVERAGE
1860 WITH CITIZENS. I UNDERSTAND THAT PRIVATE MARKET INSURANCE RATES
1861 ARE REGULATED AND APPROVED BY THE STATE.

1862 ~~3.2.~~ I ~~ALSO~~ UNDERSTAND THAT I MAY BE SUBJECT TO EMERGENCY
1863 ASSESSMENTS TO THE SAME EXTENT AS POLICYHOLDERS OF OTHER
1864 INSURANCE COMPANIES, OR A DIFFERENT AMOUNT AS IMPOSED BY THE
1865 FLORIDA LEGISLATURE.

1866 ~~4.3.~~ I ~~ALSO~~ UNDERSTAND THAT CITIZENS PROPERTY INSURANCE
1867 CORPORATION IS NOT SUPPORTED BY THE FULL FAITH AND CREDIT OF THE
1868 STATE OF FLORIDA.

1869 a. The corporation shall maintain, in electronic format or
1870 otherwise, a copy of the applicant's signed acknowledgment and
1871 provide a copy of the statement to the policyholder as part of
1872 his or her ~~the first~~ renewal after the effective date of this
1873 subparagraph.

1874 b. The signed acknowledgment form creates a conclusive
1875 presumption that the policyholder understood and accepted his or
1876 her potential surcharge and assessment liability as a
1877 policyholder of the corporation.

1878 (g) The executive director, with the concurrence of the
1879 board, shall determine whether it is more cost-effective and in
1880 the best interests of the corporation to use legal services
1881 provided by in-house attorneys employed by the corporation
1882 rather than contracting with outside counsel. In making such
1883 determination, the board shall document its findings and ~~shall~~



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1884 consider~~+~~ the expertise needed; whether time commitments exceed
1885 in-house staff resources; whether local representation is
1886 needed; the travel, lodging and other costs associated with in-
1887 house representation; and such other factors that the board
1888 determines are relevant.

1889 (i)1. The Office of the Internal Auditor is established
1890 within the corporation to provide a central point for
1891 coordination of and responsibility for activities that promote
1892 accountability, integrity, and efficiency to the policyholders
1893 and to the taxpayers of this state. The internal auditor shall
1894 be appointed by the board of governors, shall report to and be
1895 under the general supervision of the board of governors, and is
1896 not subject to supervision by an ~~any~~ employee of the
1897 corporation. Administrative staff and support shall be provided
1898 by the corporation. The internal auditor shall be appointed
1899 without regard to political affiliation. It is the duty and
1900 responsibility of the internal auditor to:

1901 a. Provide direction for, supervise, conduct, and
1902 coordinate audits, investigations, and management reviews
1903 relating to the programs and operations of the corporation.

1904 b. Conduct, supervise, or coordinate other activities
1905 carried out or financed by the corporation for the purpose of
1906 promoting efficiency in the administration of, or preventing and
1907 detecting fraud, abuse, and mismanagement in, its programs and
1908 operations.

1909 c. Submit final audit reports, reviews, or investigative
1910 reports to the board of governors, the executive director, the
1911 members of the Financial Services Commission, and the President
1912 of the Senate and the Speaker of the House of Representatives.



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1913 d. Keep the executive director and the board of governors
1914 informed concerning fraud, abuses, and internal control
1915 deficiencies relating to programs and operations administered or
1916 financed by the corporation, recommend corrective action, and
1917 report on the progress made in implementing corrective action.

1918 e. Report expeditiously to the Department of Law
1919 Enforcement or other law enforcement agencies, as appropriate,
1920 whenever the internal auditor has reasonable grounds to believe
1921 there has been a violation of criminal law.

1922 f. Cooperate and coordinate activities with the
1923 corporation's inspector general.

1924 2. On or before February 15, the internal auditor shall
1925 prepare an annual report evaluating the effectiveness of the
1926 internal controls of the corporation and providing
1927 recommendations for corrective action, if necessary, and
1928 summarizing the audits, reviews, and investigations conducted by
1929 the office during the preceding fiscal year. The final report
1930 shall be furnished to the board of governors and the executive
1931 director, the President of the Senate, the Speaker of the House
1932 of Representatives, and the Financial Services Commission.

1933 (m)1. The Auditor General shall conduct an operational
1934 audit of the corporation annually ~~every 3 years~~ to evaluate
1935 management's performance in administering laws, policies, and
1936 procedures governing the operations of the corporation in an
1937 efficient and effective manner. The scope of the review must
1938 ~~shall~~ include, but is not limited to, evaluating claims
1939 handling, customer service, take-out programs and bonuses;7
1940 financing arrangements made to address a 100-year probable
1941 maximum loss; personnel costs and administration; underwriting,



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1942 including processes designed to ensure compliance with policy
1943 eligibility requirements of law;~~7~~ procurement of goods and
1944 services;~~7~~ internal controls;~~7~~ and the internal audit function;
1945 and related internal controls. A copy of the report shall be
1946 provided to the corporation's board, the President of the
1947 Senate, the Speaker of the House of Representatives, each member
1948 of the Financial Services Commission, and the Office of
1949 Insurance Regulation. The initial audit must be completed by
1950 February 1,~~2009.~~

1951 2. The executive director, with the concurrence of the
1952 board, shall contract with an independent auditing firm to
1953 conduct a performance audit of the corporation every 2 years.
1954 The objectives of the audit include, but are not limited to, an
1955 evaluation, within the context of insurance industry best
1956 practices, of the corporation's strategic planning processes,
1957 the functionality of the corporation's organizational structure,
1958 the compensation levels of senior management, and the overall
1959 management and operations of the corporation. A copy of the
1960 audit report shall be provided to the corporation's board, the
1961 President of the Senate, the Speaker of the House of
1962 Representatives, each member of the Financial Services
1963 Commission, the Office of Insurance Regulation, and the Auditor
1964 General. The initial audit must be completed by June 1, 2014.

1965 (q)1. The corporation shall certify to the office its needs
1966 for annual assessments as to a particular calendar year, and for
1967 any interim assessments that it deems ~~to be~~ necessary to sustain
1968 operations as to a particular year pending the receipt of annual
1969 assessments. Upon verification, the office shall approve such
1970 certification, and the corporation shall levy such annual or



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1971 interim assessments. Such assessments shall be prorated as
1972 provided in paragraph (b). The corporation shall take all
1973 reasonable and prudent steps necessary to collect the amount of
1974 assessments due from each assessable insurer, including, if
1975 prudent, filing suit to collect the assessments, and the office
1976 may provide such assistance to the corporation it deems
1977 appropriate. If the corporation is unable to collect an
1978 assessment from any assessable insurer, the uncollected
1979 assessments shall be levied as an additional assessment against
1980 the assessable insurers and any assessable insurer required to
1981 pay an additional assessment as a result of such failure to pay
1982 shall have a cause of action against the ~~such~~ nonpaying
1983 assessable insurer. Assessments must ~~shall~~ be included ~~as an~~
1984 ~~appropriate factor~~ in the making of rates. The failure of a
1985 surplus lines agent to collect and remit any regular or
1986 emergency assessment levied by the corporation is ~~considered to~~
1987 ~~be~~ a violation of s. 626.936 and subjects the surplus lines
1988 agent to the penalties provided in that section.

1989 2. The governing body of any unit of local government, any
1990 residents of which are insured by the corporation, may issue
1991 bonds as defined in s. 125.013 or s. 166.101 ~~from time to time~~
1992 to fund an assistance program, in conjunction with the
1993 corporation, for the purpose of defraying deficits of the
1994 corporation. In order to avoid needless and indiscriminate
1995 proliferation, duplication, and fragmentation of such assistance
1996 programs, the ~~any~~ unit of local government, ~~any residents of~~
1997 ~~which are insured by the corporation,~~ may provide for the
1998 payment of losses, regardless of whether or not the losses
1999 occurred within or outside of the territorial jurisdiction of



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2000 the local government. Revenue bonds under this subparagraph may
2001 not be issued until validated pursuant to chapter 75, unless a
2002 state of emergency is declared by executive order or
2003 proclamation of the Governor pursuant to s. 252.36 which makes
2004 ~~making~~ such findings as are necessary to determine that it is in
2005 the best interests of, and necessary for, the protection of the
2006 public health, safety, and general welfare of residents of this
2007 state and declaring it an essential public purpose to permit
2008 certain municipalities or counties to issue such bonds as will
2009 permit relief to claimants and policyholders of the corporation.
2010 Any such unit of local government may enter into ~~such~~ contracts
2011 with the corporation and with any other entity created pursuant
2012 to this subsection as ~~are~~ necessary to carry out this paragraph.
2013 Any bonds issued are ~~under this subparagraph~~ shall be payable
2014 from and secured by moneys received by the corporation from
2015 emergency assessments under sub-subparagraph (b)3.d., and
2016 assigned and pledged to or on behalf of the unit of local
2017 government for the benefit of the holders of such bonds. The
2018 funds, credit, property, and taxing power of the state or of the
2019 unit of local government may ~~shall~~ not be pledged for the
2020 payment of such bonds.

2021 3.~~a~~. The corporation shall adopt one or more programs
2022 subject to approval by the office for the reduction of both new
2023 and renewal writings by ~~in~~ the corporation. The corporation may
2024 consider any prudent and not unfairly discriminatory approach to
2025 reducing corporation writings.

2026 a. The corporation may adopt a credit against assessment
2027 liability or other liability which provides an incentive for
2028 insurers to take and keep risks out of the corporation by



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2029 maintaining or increasing voluntary writings in counties or
2030 areas in which corporation risks are highly concentrated, and a
2031 program to provide a formula under which an insurer voluntarily
2032 taking risks out of the corporation by maintaining or increasing
2033 voluntary writings is relieved, wholly or partially, from
2034 assessments under sub-subparagraph (b)3.a.

2035 b. Beginning January 1, 2008, Any program the corporation
2036 adopts for the payment of bonuses to an insurer for each risk
2037 the insurer removes from the corporation must ~~shall~~ comply with
2038 s. 627.3511(2) and may not exceed the amount referenced in s.
2039 627.3511(2) for each risk removed. ~~The corporation may consider~~
2040 ~~any prudent and not unfairly discriminatory approach to reducing~~
2041 ~~corporation writings, and may adopt a credit against assessment~~
2042 ~~liability or other liability that provides an incentive for~~
2043 ~~insurers to take risks out of the corporation and to keep risks~~
2044 ~~out of the corporation by maintaining or increasing voluntary~~
2045 ~~writings in counties or areas in which corporation risks are~~
2046 ~~highly concentrated and a program to provide a formula under~~
2047 ~~which an insurer voluntarily taking risks out of the corporation~~
2048 ~~by maintaining or increasing voluntary writings will be relieved~~
2049 ~~wholly or partially from assessments under sub-subparagraph~~
2050 ~~(b)3.a. However,~~ Any "take-out bonus" or payment to an insurer
2051 must be conditioned on the property being insured for at least 5
2052 years by the insurer, unless canceled or nonrenewed by the
2053 policyholder. If the policy is canceled or nonrenewed by the
2054 policyholder before the end of the 5-year period, the amount of
2055 the take-out bonus must be prorated for the time period the
2056 policy was insured. If ~~When~~ the corporation enters into a
2057 contractual agreement for a take-out plan, the producing agent



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2058 of record of the corporation policy is entitled to retain any
2059 unearned commission on such policy, and the insurer shall
2060 either:

2061 (I) Pay to the producing agent of record of the policy, for
2062 the first year, an amount which is the greater of the insurer's
2063 usual and customary commission for the type of policy written or
2064 a policy fee equal to the usual and customary commission of the
2065 corporation; or

2066 (II) Offer to allow the producing agent of record ~~of the~~
2067 ~~policy~~ to continue servicing the policy for at least a period of
2068 ~~not less than~~ 1 year and offer to pay the agent the insurer's
2069 usual and customary commission for the type of policy written.
2070 If the producing agent is unwilling or unable to accept
2071 appointment by the new insurer, the new insurer shall pay the
2072 agent in accordance with sub-sub-subparagraph (I).

2073 ~~c.b.~~ Any credit or exemption from regular assessments
2074 adopted under this subparagraph shall last up to no longer than
2075 ~~the~~ 3 years after following the cancellation or expiration of
2076 the policy by the corporation. With the approval of the office,
2077 the board may extend such credits for an additional year if the
2078 insurer guarantees an additional year of renewability for all
2079 policies removed from the corporation, or for 2 additional years
2080 if the insurer guarantees 2 additional years of renewability for
2081 all policies so removed.

2082 ~~d.e. A There shall be no~~ credit, limitation, exemption, or
2083 deferment from emergency assessments ~~to be~~ collected from
2084 policyholders pursuant to sub-subparagraph (b)3.d. is
2085 prohibited.

2086 4. The corporation plan shall provide for the deferment, in



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2087 whole or in part, of the assessment of an assessable insurer,
2088 other than an emergency assessment collected from policyholders
2089 pursuant to sub-subparagraph (b)3.d., if the office finds that
2090 payment of the assessment would endanger or impair the solvency
2091 of the insurer. ~~If In the event~~ an assessment against an
2092 assessable insurer is deferred in whole or in part, the amount
2093 by which such assessment is deferred may be assessed against the
2094 other assessable insurers in a manner consistent with the basis
2095 for assessments set forth in paragraph (b).

2096 5. ~~Effective July 1, 2007,~~ In order to evaluate the costs
2097 and benefits of approved take-out plans, if the corporation pays
2098 a bonus or other payment to an insurer for an approved take-out
2099 plan, it shall maintain a record of the address or such other
2100 identifying information on the property or risk removed in order
2101 to track if and when the property or risk is later insured by
2102 the corporation.

2103 ~~6.~~ Any policy taken out, assumed, or removed from the
2104 corporation is, as of the effective date of the take-out,
2105 assumption, or removal, direct insurance issued by the insurer
2106 and not by the corporation, even if the corporation continues to
2107 service the policies. This subparagraph applies to policies of
2108 the corporation and not policies taken out, assumed, or removed
2109 from any other entity.

2110 6. The corporation may adopt one or more programs to
2111 encourage authorized insurers to remove policies from the
2112 corporation through a loan from the corporation to an insurer
2113 secured by a surplus note that contains such necessary and
2114 reasonable provisions as the corporation requires. Such surplus
2115 note is subject to the review and approval of the office



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2116 pursuant to s. 628.401. The corporation may include, but is not
2117 limited to, provisions regarding the maximum size of a loan to
2118 an insurer, capital matching requirements, the relationship
2119 between the aggregate number of policies or amount of loss
2120 exposure removed from the association and the amount of a loan,
2121 retention requirements related to policies removed from the
2122 corporation, and limitations on the number of insurers receiving
2123 loans from the corporation under any one management group in
2124 whatever form or arrangement. If a loan secured by a surplus
2125 note is provided to a new mutual insurance company, the
2126 corporation may require the board of the new mutual insurer to
2127 have a majority of independent board members, may restrict the
2128 ability of the new mutual insurer to convert to a stock insurer
2129 while the mutual insurer owes any principal or interest under
2130 the surplus note to the corporation, establish a capital match
2131 requirement of up to \$1 of private capital for each \$4 of the
2132 corporation's loan to a new mutual insurer, and limit the
2133 eligibility of a new mutual insurer for a waiver of the ceding
2134 commission traditionally associated with take-out programs from
2135 the corporation to those new mutual insurers that agree
2136 contractually to maintain an expense ratio below 20 per cent of
2137 written premium. For this purpose, the term "expense ratio"
2138 means the sum of agent commissions and other acquisition
2139 expenses; general and administrative expenses; and premium
2140 taxes, licenses, and fees, divided by the gross written premium.

2141 (z) In enacting the provisions of this section, the
2142 Legislature recognizes that both the Florida Windstorm
2143 Underwriting Association and the Residential Property and
2144 Casualty Joint Underwriting Association have entered into



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2145 financing arrangements that obligate each entity to service its
2146 debts and maintain the capacity to repay funds secured under
2147 these financing arrangements. It is the intent of the
2148 Legislature that ~~nothing in~~ this section not be construed to
2149 compromise, diminish, or interfere with the rights of creditors
2150 under such financing arrangements. It is further the intent of
2151 the Legislature to preserve the obligations of the Florida
2152 Windstorm Underwriting Association and Residential Property and
2153 Casualty Joint Underwriting Association with regard to
2154 outstanding financing arrangements, with such obligations
2155 passing entirely and unchanged to the corporation and,
2156 specifically, to the applicable account of the corporation. So
2157 long as any bonds, notes, indebtedness, or other financing
2158 obligations of the Florida Windstorm Underwriting Association or
2159 the Residential Property and Casualty Joint Underwriting
2160 Association are outstanding, under the terms of the financing
2161 documents pertaining to them, the executive director of the
2162 corporation, with the concurrence of the governing board, ~~of the~~
2163 ~~corporation~~ shall have and shall exercise the authority to levy,
2164 charge, collect, and receive all premiums, assessments,
2165 surcharges, charges, revenues, and receipts that the
2166 associations had authority to levy, charge, collect, or receive
2167 under the provisions of subsection (2) and this subsection,
2168 respectively, as they existed on January 1, 2002, to provide
2169 moneys, without exercise of the authority provided by this
2170 subsection, in at least the amounts, and by the times, as would
2171 be provided under those former provisions of subsection (2) or
2172 this subsection, respectively, so that the value, amount, and
2173 collectability of any assets, revenues, or revenue source



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2174 pledged or committed to, or any lien thereon securing such
2175 outstanding bonds, notes, indebtedness, or other financing
2176 obligations is ~~will~~ not ~~be~~ diminished, impaired, or adversely
2177 affected by the amendments made by this section ~~act~~ and to
2178 permit compliance with all provisions of financing documents
2179 pertaining to such bonds, notes, indebtedness, or other
2180 financing obligations, or the security or credit enhancement for
2181 them, and any reference in this subsection to bonds, notes,
2182 indebtedness, financing obligations, or similar obligations, of
2183 the corporation must ~~shall~~ include like instruments or contracts
2184 of the Florida Windstorm Underwriting Association and the
2185 Residential Property and Casualty Joint Underwriting Association
2186 to the extent not inconsistent with the ~~provisions of the~~
2187 financing documents pertaining to them.

2188 (gg) The Office of Inspector General is established within
2189 the corporation to provide a central point for coordination of
2190 and responsibility for activities that promote accountability,
2191 integrity, and efficiency. The office shall be headed by an
2192 inspector general, which is a senior management position that
2193 involves planning, coordinating, and performing activities
2194 assigned to and assumed by the inspector general for the
2195 corporation.

2196 1. The inspector general shall be appointed by the
2197 Financial Services Commission and may be removed from office
2198 only by the commission. The inspector general shall be appointed
2199 without regard to political affiliation.

2200 a. At a minimum, the inspector general must possess a
2201 bachelor's degree from an accredited college or university and 8
2202 years of professional experience related to the duties of an



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2203 inspector general as described in this paragraph, of which 5
2204 years must have been at a supervisory level.

2205 b. Until June 30, 2014, the inspector general shall be
2206 under the general supervision of the Financial Services
2207 Commission and not subject to the supervision of any employee of
2208 the corporation. Beginning July 1, 2014, the inspector general
2209 shall report to, and be under the supervision of, the chair of
2210 the board of governors. The executive director or corporation
2211 staff may not prevent or prohibit the inspector general from
2212 initiating, carrying out, or completing any review, evaluation,
2213 or investigation.

2214 2. The inspector general shall initiate, direct,
2215 coordinate, participate in, and perform studies, reviews,
2216 evaluations, and investigations designed to assess management
2217 practices; compliance with laws, rules, and policies; and
2218 program effectiveness and efficiency. This includes:

2219 a. Conducting internal examinations; investigating
2220 allegations of fraud, waste, abuse, malfeasance, mismanagement,
2221 employee misconduct, or violations of corporation policies; and
2222 conducting any other investigations as directed by the Financial
2223 Services Commission or as independently determined.

2224 b. Evaluating and recommending actions regarding security,
2225 the ethical behavior of personnel and vendors, and compliance
2226 with rules, laws, policies, and personnel matters; and rendering
2227 ethics opinions.

2228 c. Overseeing or participating in personnel and
2229 administrative policy compliance and management, operational
2230 reviews, and conducting and selecting human resources-related
2231 advice and consultation.



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2232 d. In conjunction with the ethics and compliance officer,
2233 evaluating the application of a corporation code of ethics,
2234 providing input on the design and content of ethics-related
2235 policy training courses, educating employees on the code and on
2236 appropriate conduct, and checking for compliance.

2237 e. Participating in policy development and review. This
2238 includes working collaboratively with the ethics and compliance
2239 officer in the creation, modification, and maintenance of
2240 personnel and administrative services policies and in the
2241 identification of policy enhancements; and researching policy-
2242 related issues.

2243 f. Participating in the activities of the senior management
2244 team and evaluating the management's compliance with recommended
2245 solutions.

2246 g. Cooperating and coordinating activities with the chief
2247 of internal audit, but not conducting internal audits.

2248 h. Maintaining records of investigations and discipline in
2249 accordance with established policies.

2250 i. Supervising and directing the tasks and assignments of
2251 the staff assigned to assist with the inspector general's
2252 projects. This includes regular review and feedback regarding
2253 work in progress and upon completion and providing input
2254 regarding relevant training and staff development activities as
2255 warranted.

2256 j. Directing, planning, preparing, and presenting interim
2257 and final reports and oral briefings to the Financial Services
2258 Commission and the executive director which communicate the
2259 results of studies, reviews, and investigations.

2260 k. Providing the executive director with independent and



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2261 objective assessments of programs and activities.

2262 1. Completing special projects and assignments as directed
2263 by the Financial Services Commission and performing other duties
2264 as requested by the commission.

2265 3. At least annually, the inspector general shall provide a
2266 report to the President of the Senate and the Speaker of the
2267 House of Representatives regarding the corporation's
2268 clearinghouse and the extent to which policies are being
2269 returned to the voluntary market. This report must include an
2270 analysis regarding the effectiveness of the clearinghouse in
2271 encouraging voluntary market participation in depopulation.

2272 Section 10. Effective October 1, 2013, paragraph (e) of
2273 subsection (6) of section 627.351, Florida Statutes, is amended
2274 to read

2275 627.351 Insurance risk apportionment plans.—

2276 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

2277 (e) The corporation is subject to s. 287.057 for the
2278 purchase of commodities and contractual services except as
2279 otherwise provided in this paragraph. Services provided by
2280 traders or technical experts to assist a licensed adjuster
2281 in the evaluation of individual claims are not subject to the
2282 procurement requirements of this section. Additionally, the
2283 procurement of financial services providers and underwriters
2284 must be made pursuant to s. 627.3513 ~~Purchases that equal or~~
2285 ~~exceed \$2,500, but are less than \$25,000, shall be made by~~
2286 ~~receipt of written quotes, written record of telephone quotes,~~
2287 ~~or informal bids, whenever practical. The procurement of goods~~
2288 ~~or services valued at or over \$25,000 shall be subject to~~
2289 ~~competitive solicitation, except in situations where the goods~~



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2290 ~~or services are provided by a sole source or are deemed an~~
2291 ~~emergency purchase; the services are exempted from competitive~~
2292 ~~solicitation requirements under s. 287.057(3)(f); or the~~
2293 ~~procurement of services is subject to s. 627.3513. Justification~~
2294 ~~for the sole-sourcing or emergency procurement must be~~
2295 ~~documented.~~ Contracts for goods or services valued at or more
2296 than ~~over~~ \$100,000 are subject to approval by the board.

2297 1. The corporation is an agency for the purposes of s.
2298 287.057, except for subsection (22) of that section for which
2299 the corporation is an eligible user.

2300 a. The authority of the Department of Management Services
2301 and the Chief Financial Officer under s. 287.057 extends to the
2302 corporation as if the corporation were an agency.

2303 b. The executive director of the corporation is the agency
2304 head under s. 287.057, except for resolution of bid protests for
2305 which the board would serve as the agency head.

2306 2. The corporation must provide notice of a decision or
2307 intended decision concerning a solicitation, contract award, or
2308 exceptional purchase by electronic posting. Such notice must
2309 contain the following statement: "Failure to file a protest
2310 within the time prescribed in this section constitutes a waiver
2311 of proceedings."

2312 a. A person adversely affected by the corporation's
2313 decision or intended decision to award a contract pursuant to s.
2314 287.057(1) or s. 287.057(3)(c) who elects to challenge the
2315 decision must file a written notice of protest with the
2316 executive director of the corporation within 72 hours after the
2317 corporation posts a notice of its decision or intended decision.
2318 For a protest of the terms, conditions, and specifications



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2319 contained in a solicitation, including any provisions governing
2320 the methods for ranking bids, proposals, replies, awarding
2321 contracts, reserving rights of further negotiation, or modifying
2322 or amending any contract, the notice of protest must be filed in
2323 writing within 72 hours after the posting of the solicitation.
2324 Saturdays, Sundays, and state holidays are excluded in the
2325 computation of the 72-hour time period.

2326 b. A formal written protest must be filed within 10 days
2327 after the date the notice of protest is filed. The formal
2328 written protest must state with particularity the facts and law
2329 upon which the protest is based. Upon receipt of a formal
2330 written protest that has been timely filed, the corporation must
2331 stop the solicitation or contract award process until the
2332 subject of the protest is resolved by final board action unless
2333 the executive director sets forth in writing particular facts
2334 and circumstances that require the continuance of the
2335 solicitation or contract award process without delay in order to
2336 avoid an immediate and serious danger to the public health,
2337 safety, or welfare. The corporation must provide an opportunity
2338 to resolve the protest by mutual agreement between the parties
2339 within 7 business days after receipt of the formal written
2340 protest. If the subject of a protest is not resolved by mutual
2341 agreement within 7 business days, the corporation's board must
2342 place the protest on the agenda and resolve it at its next
2343 regularly scheduled meeting. The protest must be heard by the
2344 board at a publicly noticed meeting in accordance with
2345 procedures established by the board.

2346 c. In a protest of an invitation-to-bid or request-for-
2347 proposals procurement, submissions made after the bid or



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2348 proposal opening which amend or supplement the bid or proposal
2349 may not be considered. In protesting an invitation-to-negotiate
2350 procurement, submissions made after the corporation announces
2351 its intent to award a contract, reject all replies, or withdraw
2352 the solicitation that amends or supplements the reply may not be
2353 considered. Unless otherwise provided by law, the burden of
2354 proof rests with the party protesting the corporation's action.
2355 In a competitive-procurement protest, other than a rejection of
2356 all bids, proposals, or replies, the corporation's board must
2357 conduct a de novo proceeding to determine whether the
2358 corporation's proposed action is contrary to the corporation's
2359 governing statutes, the corporation's rules or policies, or the
2360 solicitation specifications. The standard of proof for the
2361 proceeding is whether the corporation's action was clearly
2362 erroneous, contrary to competition, arbitrary, or capricious. In
2363 any bid-protest proceeding contesting an intended corporation
2364 action to reject all bids, proposals, or replies, the standard
2365 of review by the board is whether the corporation's intended
2366 action is illegal, arbitrary, dishonest, or fraudulent.

2367 d. Failure to file a notice of protest or failure to file a
2368 formal written protest constitutes a waiver of proceedings.

2369 3. Contract actions and decisions by the board under this
2370 paragraph are final. Any further legal remedy must be made in
2371 the Circuit Court of Leon County.

2372 Section 11. The purchase of commodities and contractual
2373 services by Citizens Property Insurance Corporation commenced
2374 before October 1, 2013, is governed by the law in effect on
2375 September 30, 2013.

2376 Section 12. Effective January 1, 2014, paragraph (n) of



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2377 subsection (6) of section 627.351, Florida Statutes, is amended
2378 to read:

2379 627.351 Insurance risk apportionment plans.—

2380 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

2381 (n)1. ~~Rates for coverage provided by the corporation must~~
2382 ~~be actuarially sound and subject to s. 627.062,~~ Except as
2383 otherwise provided in this paragraph, rates for coverage
2384 provided by the corporation must be actuarially sound and not
2385 competitive with approved rates charged in the admitted
2386 voluntary market in order for the corporation to function as a
2387 residual market mechanism that provides insurance only if
2388 insurance cannot be procured in the voluntary market.

2389 a. In establishing actuarially sound rates the corporation
2390 shall include an appropriate catastrophe risk load factor that
2391 reflects the actual catastrophic risk exposure retained by the
2392 corporation.

2393 b. In establishing noncompetitive rates for personal and
2394 commercial lines residential policies, the average rates of the
2395 corporation for each rating territory may not be less than the
2396 average rates charged by the insurer that had the highest
2397 average rate in that rating territory among the 20 voluntary
2398 admitted insurers with the greatest total direct written premium
2399 in the state for that line of business in the preceding year.

2400 c. In establishing noncompetitive rates for mobile home
2401 coverage, the average rates of the corporation may not be less
2402 than the average rates charged by the insurer that had the
2403 highest average rate in that rating territory among the five
2404 voluntary admitted insurers with the greatest total written
2405 premium for mobile home owner's policies in the state in the



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2406 preceding year. The corporation shall file its recommended rates
2407 with the office at least annually. ~~The corporation shall provide~~
2408 ~~any additional information regarding the rates which the office~~
2409 ~~requires. The office shall consider the recommendations of the~~
2410 ~~board and issue a final order establishing the rates for the~~
2411 ~~corporation within 45 days after the recommended rates are~~
2412 ~~filed. The corporation may not pursue an administrative~~
2413 ~~challenge or judicial review of the final order of the office.~~

2414 d. Rates for commercial nonresidential policies must be
2415 actuarially sound in accordance with sub-subparagraph a.

2416 e. The requirements of sub-subparagraphs b. and c. do not
2417 apply to rates in territories where the office determines there
2418 is not a reasonable degree of competition. In such territories
2419 the corporation's rates must be actuarially sound in accordance
2420 with sub-subparagraph a.

2421 2. In addition to the rates otherwise determined pursuant
2422 to this paragraph, the corporation shall impose and collect an
2423 amount equal to the premium tax provided in s. 624.509 to
2424 augment the financial resources of the corporation.

2425 ~~3. After the public hurricane loss projection model under~~
2426 ~~s. 627.06281 has been found to be accurate and reliable by the~~
2427 ~~Florida Commission on Hurricane Loss Projection Methodology, the~~
2428 ~~model shall serve as the minimum benchmark for determining the~~
2429 ~~windstorm portion of the corporation's rates. This subparagraph~~
2430 ~~does not require or allow the corporation to adopt rates lower~~
2431 ~~than the rates otherwise required or allowed by this paragraph.~~

2432 4. ~~The rate filings for the corporation which were approved~~
2433 ~~by the office and took effect January 1, 2007, are rescinded,~~
2434 ~~except for those rates that were lowered. As soon as possible,~~



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2435 ~~the corporation shall begin using the lower rates that were in~~
2436 ~~effect on December 31, 2006, and provide refunds to~~
2437 ~~policyholders who paid higher rates as a result of that rate~~
2438 ~~filing. The rates in effect on December 31, 2006, remain in~~
2439 ~~effect for the 2007 and 2008 calendar years except for any rate~~
2440 ~~change that results in a lower rate. The next rate change that~~
2441 ~~may increase rates shall take effect pursuant to a new rate~~
2442 ~~filing recommended by the corporation and established by the~~
2443 ~~office, subject to this paragraph.~~

2444 ~~5. Beginning on July 15, 2009, and annually thereafter, the~~
2445 ~~corporation must make a recommended actuarially sound rate~~
2446 ~~filing for each personal and commercial line of business it~~
2447 ~~writes, to be effective no earlier than January 1, 2010.~~

2448 ~~3.6. For policies initially insured by the corporation~~
2449 ~~before July 1, 2013, and which have continuously been insured by~~
2450 ~~the corporation since that date, Beginning on or after January~~
2451 ~~1, 2010, and notwithstanding the board's recommended rates and~~
2452 ~~the office's final order regarding the corporation's filed rates~~
2453 ~~under subparagraph 1., the corporation shall annually implement~~
2454 ~~a rate increase that which, except for sinkhole coverage, does~~
2455 ~~not exceed 10 percent for any territory single policy issued by~~
2456 ~~the corporation, excluding coverage changes and surcharges. This~~
2457 ~~subparagraph is limited to:~~

2458 ~~a. Personal lines residential policies that have a dwelling~~
2459 ~~replacement cost of less than \$300,000 and that cover homestead~~
2460 ~~personal residential properties or occupied permanent~~
2461 ~~residencies having a written rental agreement for at least 12~~
2462 ~~months.~~

2463 ~~b. Personal lines residential wind-only policies that cover~~



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2464 homestead personal residential properties, or that are occupied
2465 permanent residencies that have a written rental agreement for
2466 no less than 12 months, and have a dwelling replacement cost of
2467 less than:

2468 (1) \$1 million on July 1, 2013.

2469 (II) \$800,000 on January 1, 2014.

2470 (III) \$600,000 on January 1, 2015.

2471 c. Commercial lines residential properties.

2472 4. The corporation shall also implement the following:

2473 a.7. ~~The corporation may also implement~~ An increase to
2474 reflect the effect on the corporation of the cash buildup factor
2475 pursuant to s. 215.555(5) (b) .

2476 b. An increase of up to 3 percent, which shall only be used
2477 to purchase catastrophe reinsurance or other risk transfer
2478 mechanisms for purposes of protecting the corporation and its
2479 policyholders from potential shortfalls and assessments. In any
2480 year for which the full 3 percent increase is imposed, there
2481 must also be a corresponding 3 percent decrease, 1 percent per
2482 account, from the Citizens policyholder surcharge in (b)3.i.,
2483 for that year.

2484 5.8. ~~The corporation's implementation of rates as~~
2485 prescribed in subparagraph 3. 6. shall cease for any line of
2486 business written by the corporation upon the corporation's
2487 implementation of the rates described in subparagraph 1.
2488 actuarially sound rates. Thereafter, the corporation shall
2489 annually make a ~~recommended actuarially sound~~ rate filing
2490 implementing such rates for each ~~commercial and personal~~ line of
2491 business the corporation writes.

2492 6. The corporation shall annually certify to the office



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2493 that its rates comply with the requirements of this paragraph.
2494 If any adjustment in the rates or rating factors of the
2495 corporation is necessary to ensure such compliance, the
2496 corporation shall make and implement such adjustments and file
2497 its revised rates and rating factors with the office. If the
2498 office thereafter determines that the revised rates and rating
2499 factors fail to comply with this paragraph, it shall notify the
2500 corporation and require the corporation to amend its rates or
2501 rating factors in conjunction with its next rate filing. The
2502 office must notify the corporation by electronic means of any
2503 rate filing it approves for any insurer among the insurers
2504 referred to in this paragraph.

2505 7. By January 1, 2014, the board shall provide
2506 recommendations to the Legislature on how to provide relief to a
2507 policyholder whose premium reflects the full rate required under
2508 subparagraph 1. and who demonstrates a financial need at the
2509 time of application or renewal.

2510 Section 13. Section 627.3518, Florida Statutes, is created
2511 to read:

2512 627.3518 Citizens Property Insurance Corporation
2513 clearinghouse.—The Legislature recognizes that Citizens Property
2514 Insurance Corporation has authority to establish a clearinghouse
2515 as a separate organizational unit within the corporation for the
2516 purpose of determining the eligibility of new and renewal risks,
2517 excluding commercial residential, seeking coverage through the
2518 corporation and facilitating the identification and diversion of
2519 ineligible applicants and current policyholders from the
2520 corporation into the voluntary insurance market. The purpose of
2521 this section is to augment that authority by providing a



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2522 framework for the corporation to implement such program by July
2523 1, 2013.

2524 (1) As used in this section, the term:

2525 (a) "Clearinghouse" means the clearinghouse diversion
2526 program created under this section.

2527 (b) "Corporation" means Citizens Property Insurance
2528 Corporation.

2529 (c) "Exclusive agent" means a licensed insurance agent who
2530 has agreed, by contract, to act exclusively for one company or
2531 group of affiliated insurance companies and is disallowed by the
2532 provisions of that contract to directly write for any other
2533 unaffiliated insurer absent express consent from the company or
2534 group of affiliated insurance companies.

2535 (d) "Independent agent" means a licensed insurance agent
2536 not described in paragraph (c).

2537 (2) In order to confirm eligibility with the corporation
2538 and to enhance the access of new applicants for coverage and
2539 existing policyholders of the corporation to offers of coverage
2540 from authorized and eligible insurers, the corporation shall
2541 establish a clearinghouse to facilitate the diversion of
2542 ineligible applicants and existing policyholders from the
2543 corporation into the voluntary insurance market.

2544 (3) The clearinghouse shall have the same rights and
2545 responsibilities in carrying out its duties as a licensed
2546 general lines agent, but is not required to employ or engage a
2547 licensed general lines agent or to maintain an insurance agency
2548 license in order to solicit and place insurance coverage. In
2549 establishing the clearinghouse, the corporation may:

2550 (a) Require all new applications and all policies due for



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2551 renewal to be submitted to the clearinghouse or a private
2552 alternative in order to facilitate obtaining an offer of
2553 coverage from an authorized insurer before binding or renewing
2554 coverage by the corporation.

2555 (b) Employ or otherwise contract with individuals or other
2556 entities to provide administrative or professional services in
2557 order to effectuate the plan within the corporation in
2558 accordance with the applicable purchasing requirements under s.
2559 627.351.

2560 (c) Enter into contracts with an authorized or eligible
2561 insurer participating in the clearinghouse and accept an
2562 appointment by such insurer.

2563 (d) Provide funds to operate the clearinghouse, or charge
2564 agents and insurers a reasonable fee to offset, or partially
2565 offset, the costs of the clearinghouse. Insurers participating
2566 in the clearinghouse are not required to use the clearinghouse
2567 for the renewal of policies initially written through the
2568 clearinghouse.

2569 (e) Develop an enhanced application for obtaining
2570 information that will assist private insurers in determining
2571 whether to make an offer of coverage through the clearinghouse.

2572 (f) Before approving new applications for coverage by the
2573 corporation, require every application to be subject to a 48-
2574 hour period that allows an insurer participating in the
2575 clearinghouse to select the application for coverage. The
2576 insurer may issue a binder on any policy selected for coverage
2577 for a period of at least 30 days, but not more than 60 days.

2578 (4) An authorized or eligible insurer may participate in
2579 the clearinghouse; however, participation is not mandatory.



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2580 Insurers making offers of coverage to new applicants or renewing
2581 policyholders through the clearinghouse:

2582 (a) Are not required to individually appoint an agent whose
2583 customer is underwritten and bound through the clearinghouse.

2584 Notwithstanding s. 626.112, insurers are not required to appoint
2585 an agent on a policy underwritten through the clearinghouse as
2586 long as that policy remains with the insurer. Insurers may
2587 appoint an agent whose customer is initially underwritten and
2588 bound through the clearinghouse. If an insurer accepts a policy
2589 from an agent who is not appointed pursuant to this paragraph
2590 and thereafter accepts a policy from such agent, the provisions
2591 of s. 626.112 requiring appointment apply to the agent.

2592 (b) Must enter into a limited agency agreement with each
2593 agent who is not appointed in accordance with paragraph (a) and
2594 whose customer is underwritten and bound through the
2595 clearinghouse.

2596 (c) Must enter into its standard agency agreement with each
2597 agent whose customer is underwritten and bound through the
2598 clearinghouse if that agent has been appointed by the insurer
2599 pursuant to s. 626.112.

2600 (d) Must comply with s. 627.4133(2).

2601 (e) Must allow authorized or eligible insurers
2602 participating in the clearinghouse to participate through their
2603 single, designated managing general agent or broker; however the
2604 provisions of paragraph (6) (a) regarding ownership, control, and
2605 use of the expirations apply.

2606 (5) (a) Notwithstanding s. 627.3517, an applicant for new
2607 coverage is not eligible for coverage from the corporation if
2608 the applicant is offered coverage from an authorized insurer



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2609 through the clearinghouse at a premium that is at or below the
2610 eligibility threshold established under s. 627.351(6)(c)5.a.

2611 (b) Notwithstanding any other provisions of law, if a
2612 renewing policyholder of the corporation is offered coverage
2613 from an authorized insurer for a personal lines or commercial
2614 lines risk at a premium that is no more than 15 percent above
2615 the corporation's renewal premium for comparable coverage, the
2616 risk is not eligible for coverage with the corporation.

2617 (c) Notwithstanding s. 626.916(1), if an applicant for new
2618 or renewal coverage from the corporation does not receive an
2619 offer of coverage from an authorized insurer, the applicant may
2620 choose to accept an offer of coverage from an eligible insurer
2621 or their broker under ss. 626.913-626.937. Such offers of
2622 coverage from an eligible insurer do not make the risk
2623 ineligible for coverage with the corporation.

2624 (d) An applicant for new or renewal coverage from the
2625 corporation may choose to accept any offers of coverage received
2626 through the clearinghouse from an authorized insurer that is
2627 greater than 15 percent of the corporation's renewal premium.

2628 (e) Sections 627.351(6)(c)5.a.(I) and b.(I) do not apply to
2629 an offer of coverage from an authorized insurer obtained through
2630 the clearinghouse.

2631 (6) Independent agents who submit new applications for
2632 coverage or who are the agent of record on a renewal policy
2633 submitted to the clearinghouse:

2634 (a) Must maintain ownership and the exclusive use of
2635 expirations, records, or other written or electronic information
2636 directly related to such applications or renewals written
2637 through the corporation or through an insurer participating in



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2638 the clearinghouse, notwithstanding s. 627.351(6)(c)5.a.(I)(B)
2639 and (II)(B). Contracts with the corporation or required by the
2640 corporation may not amend, modify, interfere with, or limit such
2641 rights of ownership. Such expirations, records, or other written
2642 or electronic information may be used to review an application,
2643 issue a policy, or for any other purpose necessary for placing
2644 business through the clearinghouse.

2645 (b) Are not required to be appointed by an insurer
2646 participating in the clearinghouse for policies written solely
2647 through the clearinghouse, notwithstanding s. 626.112.

2648 (c) May accept an appointment from an insurer participating
2649 in the clearinghouse.

2650 (d) Must enter into a standard or limited agency agreement
2651 with the insurer, at the insurer's option.

2652
2653 Applicants ineligible for coverage under paragraph (5)
2654 remain ineligible if their independent agent is unwilling or
2655 unable to enter into a standard or limited agency agreement with
2656 an insurer participating in the clearinghouse.

2657 (7) Exclusive agents submitting new applications for
2658 coverage or who are the agent of record on a renewal policy
2659 submitted to the clearinghouse:

2660 (a) Must maintain ownership and the exclusive use of
2661 expirations, records, or other written or electronic information
2662 directly related to such applications or renewals written
2663 through the corporation or through an insurer participating in
2664 the clearinghouse, notwithstanding s. 627.351(6)(c)5.a.(I)(B)
2665 and (II)(B). Contracts with the corporation or required by the
2666 corporation may not amend, modify, interfere with, or limit such



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2667 rights of ownership. Such expirations, records, or other written
2668 or electronic information may be used to review an application,
2669 issue a policy, or for any other purpose necessary for placing
2670 business through the clearinghouse.

2671 (b) Are not required to be appointed by an insurer
2672 participating in the clearinghouse for policies written solely
2673 through the clearinghouse, notwithstanding s. 626.112.

2674 (c) Must accept an offer of coverage from an insurer whose
2675 limited servicing agreement is approved by that agent's
2676 exclusive insurer as eligible to participate in the
2677 clearinghouse with that insurer's exclusive agents.

2678 (d) Must enter into a limited servicing agreement with the
2679 insurer making an offer of coverage, and may do so only after
2680 the exclusive agent's insurer has approved the terms of the
2681 agreement. The exclusive agent's insurer must approve a limited
2682 service agreement for the clearinghouse if the insurer has
2683 approved a service agreement with the agent for other purposes.

2684
2685 An applicant is ineligible for coverage under paragraph (5)
2686 if the applicant's exclusive agent is unwilling or unable to
2687 enter into a standard or limited agency agreement with a
2688 participating insurer making an offer of coverage to that
2689 applicant.

2690 (8) To promote private market initiatives that provide
2691 offers of coverage from authorized and eligible insurers to
2692 applicants for coverage by the corporation and to the
2693 corporation's policyholders on renewal, the corporation shall
2694 publish, by January 1, 2014, reasonable standards for private
2695 alternatives to the submission of a risk to the clearinghouse.



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2696 Such private alternatives may act in a master agency arrangement
2697 that allows agents to be appointed as subagents of a master
2698 agency and to use private alternatives for the submission of
2699 risks to the clearinghouse. The alternative option allowed under
2700 this subsection is an alternative to, and not a replacement for,
2701 the clearinghouse. Neither the clearinghouse nor any private
2702 entity operating under this subsection may prohibit insurers
2703 that elect to participate from participating in more than one
2704 clearinghouse or alternative; however, an insurer participating
2705 in the private entity must also participate in the
2706 clearinghouse.

2707 (9) Submission of an application to the clearinghouse for
2708 coverage by the corporation does not constitute the binding of
2709 coverage, and the failure of the clearinghouse to obtain an
2710 offer of coverage by an insurer is not considered acceptance of
2711 coverage of the risk by the corporation.

2712 (10) The clearinghouse does not include commercial
2713 residential policies.

2714 Section 14. Temporary keepout program.—Citizens Property
2715 Corporation shall implement a temporary keepout program
2716 beginning July 1, 2013, and ending on the date the clearinghouse
2717 program established under s. 627.3518, Florida Statutes, is
2718 operational.

2719 (1) Subject to procedures adopted by the corporation, the
2720 program shall provide an opportunity for new applicants for
2721 personal residential multiperil coverage with the corporation to
2722 be offered coverage with authorized insurers through the market
2723 assistance plan established under s. 627.3515, Florida Statutes.

2724 (2) The program is subject to all of the following:



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2725 (a) The corporation may not accept a new personal
2726 residential multiperil application for coverage within 72 hours
2727 after submission of the risk to the market assistance plan under
2728 subsection (1).

2729 (b) Section 627.3517, Florida Statutes, relating to
2730 consumer choice of agent does not apply to applications for
2731 coverage accepted by authorized insurers under the program.

2732 (c) Insurers issuing policies under this section are
2733 subject to s. 627.3518(3), Florida Statutes, relating to agent
2734 appointment.

2735 (d) Notwithstanding s. 626.916(1), Florida Statutes, if an
2736 applicant for new or renewal coverage from the corporation does
2737 not receive an offer of coverage from an eligible insurer, the
2738 applicant may accept an offer from a designated broker of an
2739 insurer eligible under ss. 626.913-626.937, Florida Statutes.

2740 (3) This section expires on March 1, 2014, or when the
2741 clearinghouse program established under s. 627.3518, Florida
2742 Statutes, becomes operational, whichever occurs first.

2743 Section 15. Subsection (1) of section 627.405, Florida
2744 Statutes, is amended to read:

2745 627.405 Insurable interest; property.—

2746 (1) A ~~No~~ contract for property of insurance of property or
2747 ~~of~~ any interest in property or arising from property is not
2748 ~~shall be~~ enforceable as to the insurance except for the benefit
2749 of persons having an insurable interest in the things insured as
2750 at the time of the loss. Policyholders under a contract of
2751 property insurance may assign benefits to be received under that
2752 contract consistent with, and subject to, the conditions in the
2753 policy.



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2754 Section 16. Subsection (1) of section 627.410, Florida
2755 Statutes, is amended to read:

2756 627.410 Filing, approval of forms.—

2757 (1) A ~~No~~ basic insurance policy or annuity contract form,
2758 or application form where written application is required and is
2759 to be made a part of the policy or contract, ~~or~~ group
2760 certificates issued under a master contract delivered in this
2761 state, or printed rider or endorsement form or form of renewal
2762 certificate, may not ~~shall~~ be delivered or issued for delivery
2763 in this state, unless the form has been filed with the office by
2764 or on ~~in~~ behalf of the insurer that ~~which~~ proposes to use such
2765 form and has been approved by the office or filed pursuant to s.
2766 627.4102. This provision does not apply to surety bonds or to
2767 policies, riders, endorsements, or forms of unique character
2768 that ~~which~~ are designed for and used with ~~relation to~~ insurance
2769 on ~~upon~~ a particular subject, ~~(other than as to health~~
2770 ~~insurance)~~, or that ~~which~~ relate to the manner of distributing
2771 ~~distribution of~~ benefits or to the reservation of rights and
2772 benefits under life or health insurance policies and are used at
2773 the request of the individual policyholder, contract holder, or
2774 certificateholder. For ~~As to~~ group insurance policies
2775 effectuated and delivered outside this state but covering
2776 persons resident in this state, the group certificates to be
2777 delivered or issued for delivery in this state shall be filed
2778 with the office for information purposes only.

2779 Section 17. Section 627.4102, Florida Statutes, is created
2780 to read:

2781 627.4102 Informational filing of forms; certification.—

2782 (1) Property and casualty forms, except workers'



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2783 compensation forms, are exempt from the approval process
2784 required under s. 627.410 if:

2785 (a) The form has been electronically submitted to the
2786 office in an informational filing made through I-File 30 days
2787 before the delivery or issuance for delivery of the form within
2788 this state; and

2789 (b) At the time the informational filing is made, a
2790 notarized certification is attached to the filing which
2791 certifies that each form within the filing is in compliance with
2792 all applicable state laws and rules. The certification must be
2793 on the insurer's letterhead and signed and dated by the
2794 insurer's president, chief executive officer, general counsel,
2795 or an employee of the insurer responsible for the filing on
2796 behalf of the insurer. The certification must contain the
2797 following statement, and no other language: "I, ...[name]..., as
2798 ...[title]... of ...[insurer name]..., do hereby certify that
2799 this form filing has been thoroughly and diligently reviewed by
2800 me and by all appropriate company personnel, as well as company
2801 consultants, if applicable, and certify that each form contained
2802 within the filing is in compliance with all applicable Florida
2803 laws and rules. Should a form be found that is not in compliance
2804 with Florida laws and rules, I acknowledge that the Office of
2805 Insurance Regulation shall disapprove the form."

2806 (2) If the filing contains a form that is not in compliance
2807 with state laws and rules, the form filing, at the discretion of
2808 the office, is subject to prior review and approval pursuant to
2809 s. 627.410, and the period for review and approval established
2810 under s. 627.410(2) begins to run on the date the office
2811 notifies the insurer of the discovery of the noncompliant form.



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2812 (3) A Notice of Change in Policy Terms form required under
2813 s. 627.43141(2) shall be filed as a part of the informational
2814 filing for a renewal policy that contains a change. All
2815 modifications, additions, or deletions of terms, coverages,
2816 duties, or conditions shall be enumerated within the body of the
2817 form. If a renewal policy that was certified requires such form,
2818 the insurer must provide a copy to the named insured's agent
2819 pursuant to s. 627.43141(6) (c) before or upon providing the form
2820 to the named insured.

2821 (4) This section does not preclude an insurer from electing
2822 to file any form for approval under s. 627.410 which would
2823 otherwise be exempt under this section.

2824 (5) The provisions of this section supersede and replace
2825 the existing order issued by the office exempting specified
2826 property and casualty forms from the requirements of s. 627.410.

2827 Section 18. Except as otherwise expressly provided in the
2828 act, this act shall take effect July 1, 2013.